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ABSTRACT

A joint hearing was held to consider S. 600, a U.S. Senate bill designed to help educate the public about federal child labor laws and strengthen enforcement of child labor laws through an amendment to the Fair Labor Standards Act of 1938. Senator Howard M. Metzenbaum presided. The hearings were called because of sporadic enforcement of inadequate laws and an explosion of child labor during the last decade, as documented by the federal government and various child welfare, labor, and consumer organizations. Testimony of key officials of the U.S. Department of Labor is included, as are prepared statements and testimony from witnesses representing such organizations as the American Academy of Pediatrics, the American Association of School Administrators, the National Council of Chain Restaurants, the National Restaurant Association, the Virginia Farmworkers Legal Assistance Project, the New Jersey Department of Labor, and the U.S. General Accounting Office. Senators from the states of Connecticut, Utah, Vermont, and Minnesota also submitted written testimony, and various articles, publications, and letters are provided, including a summary of the Child Labor Amendments of 1991 and a transcript of the videotape, Danger: Kids at Work. (LB)

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CHILD LABOR AMENDMENTS OF 1991

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JOINT HEARING

BEFORE THE

SUBCOMMITTEE ON LABOR
AND
SUBCOMMITTEE ON CHILDREN, FAMILY, DRUGS AND ALCOHOLISM
OF THE
COMMITTEE ON
LABOR AND HUMAN RESOURCES
UNITED STATES SENATE

ONE HUNDRED SECOND CONGRESS

FIRST SESSION

ON

S. 600

TO AMEND THE FAIR LABOR STANDARDS ACT OF 1938 TO IMPROVE ENFORCEMENT OF THE CHILD LABOR PROVISIONS OF SUCH ACT, AND FOR OTHER PURPOSES

MARCH 19, 1991

Printed for the use of the Committee on Labor and Human Resources

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CHILD LABOR AMENDMENTS OF 1991

TUESDAY, MARCH 19, 1991

U.S. SENATE,
SUBCOMMITTEE ON LABOR, AND SUBCOMMITTEE ON CHILDREN, FAMILY, DRUGS AND ALCOHOLISM OF THE COMMITTEE ON LABOR AND HUMAN RESOURCES,
Washington, DC.

The joint subcommittees convened, pursuant to notice, at 10:02 a.m., in room SD-430, Dirksen Senate Office Building, Senator Howard M. Metzenbaum [chairman of the Subcommittee on Labor] presiding.

Present: Senators Metzenbaum, Dodd, and Durenberger.

OPENING STATEMENT OF SENATOR METZENBAUM

Senator METZENBAUM. The hearing will come to order.

Senator Dodd, is appearing at an important defense appropriation hearing this morning, and he will be here just as soon as he can and apologizes for not being present at the start of the hearing.

Today we consider S. 600, a bill to help educate the public about Federal child labor laws and strengthen enforcement against child labor violations. This is a subject that disturbs me much, concerns me much, and I believe that if the American people realized exactly how bad the situation is, they would be up in arms.

I was pleased to see this morning that two prominent Members of Congress have addressed themselves to the need and concern about children in this country. I think this is a place where we can start, and it doesn't cost any money. I call upon the administration to join us in moving forward on this very disturbing issue, as indicated in part by those pictures over there.

In 1938, Congress passed an historic law that sought to bring about the end of oppressive child labor in this country. Americans knew then that a society which valued the work of its children at the expense of their education and safety was fundamentally unjust. The law also expressed our resolve to provide children with strong workplace protections.

Exploiting children in the workplace is no less repugnant today than it was in 1938. But tragically, over half a century later, the illegal employment of children in dangerous occupations continues to plague our Nation. That is a travesty.

It is almost unbelievable that in this modern year of 1991, hundreds of thousands of children in this great country work at too young an age, for too many hours and in unsafe environments. It is shameful.

The explosion of child labor during the last decade has been documented by the Government and also by various child welfare, labor and consumer organizations. Recent General Accounting Office studies reveal significant increases in all types of child labor law violations in all areas of the country. For example, 33 States report that 48 minors were killed and 128,000 minors were injured in the workplace during fiscal years 1987 and 1988.

Moreover, because no comprehensive work-related injury and illness data exist for minors, the GAO studies underestimate the true magnitude of workplace injuries to children.

To its credit, the Department of Labor last year increased its enforcement of child labor laws through four well-publicized sweeps of the business community. But sporadic enforcement of inadequate laws will not solve the problem. I am disturbed to hear from my staff that the Department of Labor will appear before us today and indicate that nothing more is needed. That is shameful! And had I known that when the Secretary was up for confirmation, my vote very well may have been a different one. I can't believe that this Labor Department in 1991 could fail to recognize the tragedy and the tragic consequences of child labor.

A change in our child labor laws and stepped up enforcement is needed now. That is not only this Senator's view; it is the position of a broad spectrum of organizations dedicated to protecting children in the workplace, ranging from the National Consumers League to the Child Labor Coalition.

Indeed, Senator Dodd and I have received letters from over 30 organizations, urging that we act now to protect our children. Copies of these letters will be included in the record.

[The letters referred to follow:]

AMALGAMATED CLOTHING AND TEXTILE WORKERS UNION,
WASHINGTON, DC 20006,
April 10, 1991.

Hon. HOWARD METZENBAUM,
U.S. Senate,
Washington, D.C. 20510

DEAR SENATOR METZENBAUM: The Amalgamated Clothing and Textile Workers Union enthusiastically endorses and wholeheartedly supports S. 600, the Child Labor Amendments of 1991.

Seventy-five years ago, one of the very first issues that our union began to work on was the problem of child labor and the eradication of the sweatshops of those days. The commitment of our union and our members to this issue is as strong today as it was then. Earlier in this century, President Franklin D. Roosevelt took an active role in regulating child labor and protecting child workers. But recently, enforcement of these laws has been lax. Your bill restates and recommits our federal government to protecting young workers.

It is unfortunate that it is still needed, but it is definitely needed.

S. 600 proposes to strengthen the enforcement of child labor laws and provide information on child labor in the United States. This would be done by increasing criminal sanctions for willful and repeat violators, require certificates of employment for minors in order to set minimum workplace standards, increase protection for minors under the age of 14 in migrant and seasonal labor, and expands the list of hazardous occupations.

Children are our nation's most important—and treasured—resource. They should spend their youth learning and being trained for adult occupations, not replacing adult workers, or working in dangerous or hazardous jobs. S. 600 is a good beginning

in reforming our nation's child labor laws, and updating them to our current needs. We look forward to working with you in your effort to get S. 600 enacted into law.

Sincerely,

JACK SHEINKMAN,
President.

AFRICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS,
WASHINGTON, DC 2006,
March 18, 1991.

Hon. HOWARD M. METZENBAUM,
Chairman, Labor Subcommittee of the Senate Labor Committee,
U.S. Senate,
Washington, DC 20510-3502.

DEAR SENATOR METZENBAUM: The AFL-CIO wishes to go on record supporting S. 600, the Child Labor Amendments of 1991 to the Fair Labor Standards Act. The issues addressed in this legislation go to many of the problems associated with abuse of child labor.

It has been the AFL-CIO's long-standing position that the principal occupation of our nation's young people ought to be their education. However, those that must work should be able to work in conditions that further their education, are safe and healthful, and generally conducive to the development of young people.

The existing provisions in the Fair Labor Standards Act need to be strengthened to encourage these goals and to deter those that would violate them. The provisions in Section 4 of this bill, linking employment to education make a significant step in this direction. Many states now use employment certificates for young people, and this bill simply makes this good idea national public policy. Work certificates linking child labor to education underlines the principal that a young person's attention ought to be on their education.

The AFL-CIO has actively participated in the Child Labor Advisory Committee of the Department of Labor. Sections 6 and 7 of the Child Labor Amendments of 1991 identifies some particularly serious hazardous working conditions in which children are employed. Unfortunately, the advisory committee has been unsuccessful in getting the Department of Labor to address these problems through the regulatory process. Thus, the bill's consideration of these issues are a significant step in the right direction. However, all the Child Labor Hazardous Occupation Orders need to be updated.

Finally, Sections 2 and 3 strengthening the criminal and civil penalties under the act will certainly serve to focus the attention of employers on the particular special conditions related to the employment of children.

In summary, the AFL-CIO supports S. 600 as a significant effort in protecting our country's most valuable asset—its children.

Sincerely,

ROBERT MCGLOTTEN,
DIRECTOR,
Department of Legislation.

AMERICAN FEDERATION OF TEACHERS,
WASHINGTON, DC 20001,
March 19, 1991.

Hon. HOWARD M. METZENBAUM,
Chairman, Subcommittee on Labor,
Committee on Labor and Human Resources,
U.S. Senate,
Washington, DC 20510.

DEAR SENATOR METZENBAUM: The American Federation of Teachers strongly supports S. 600, the Child Care Labor Amendments of 1991, to the Fair Labor Standards Act. The AFT commends you and the members of your committee for addressing the serious issue of child labor abuse.

It has been the AFT's long-standing position that the principal occupation of nation's youth should be their education. However, those who work should be able to work in conditions that further their education, are safe and healthful, and generally conducive to the development of young people. We believe that the provisions of

the Fair Labor Standards Act need to be strengthened to encourage these goals and to deter those who would violate them.

I am enclosing a copy of "Children Who Labor," the award-winning article that was published in the *American Educator*, the professional journal of the AFT. The article graphically describes the horrors of child labor around the world. We would appreciate your including this article in the official record of the March 19, 1991 hearing on the Child Labor Amendments of 1991, held jointly by the Subcommittee on Children, Family, and Alcoholism, and the Subcommittee on Labor.

The AFT looks forward to working with you on this important issue.

Sincerely,

GREGORY A. HUMPHREY,
DIRECTOR,
Department of Legislation.

Enclosure

CHILDREN WHO LABOR

THE TRAGEDY OF CHILD WORKERS AROUND THE WORLD

By Charles D. Gray and Robert A. Senser

Speaker after speaker in the Pittsburgh hall rose to denounce the spread of child labor in the United States. One delegate, a New Yorker, described his visit to tenement house cigar factories where he found conditions that "sickened" him:

"I saw little children, six and seven and eight years of age, seated in the middle of a room on the floor, in all the dirt and dust, stripping tabacco. Little pale-faced children, with a look of care upon their faces, toiling with their tiny hands from dawn till dark, aye, and late into the night . . . . Often they would be overcome with wearnines and want of sleep and fall over upon the tabacco heap.

"Shame upon such crimes! Shame upon us if we do not raise our voices against them!"

The man who cried shame was Samuel Gompers, later to become the first president of the American Federation of Labor. The meeting at which he spoke was the founding convention of the AFL's forerunner, the Federation of Organized Trades and Labor Unions of the United States and Canada, which convened in Pittsburgh in November 1881.

A reporter, summarizing that session, wrote in the *Pittsburgh Gazette:* "THese stories, coming from men who knew what they were talking about . . . were pathetic enough to bring tears to most eyes."

That was long ago, but pathetic stories of child labor still abound in the world, especially in far-off places, stories that would bring tears to the eyes of most Americans if they heard them.

Some stories are tragic. In a hillside cemetery in northern Portugal, a small grey tombstone reads Here Lies Francisco Jose Da Silva." THe boy died at thirteen, crushed to death by a defective elevator in a local sock factory where he worked.

Other stories are of tragedies narrowly averted. In the booming city of Bangkok this past April, five workers, two of them women, were injured when the scaffold on which they were working collapsed. Two of the victims were boys, Banyat Pitapai and Krairung Machabandit, both fourteen. All five had been carrying cement up to the fourth floor of a building under construction. "Miraculously," said the *Bangkok Post*, they escaped serious injury. The government took no action against the construction firm, claiming that the workers had not filed a complaint. Hardly surprising, since as casual workers lacking any job security they risked being fired if they dared to complain.

Most stories are less dramatic but no less disturbing. In the Tungerang industrial area near Jakarta, Indonesia, children as young as twelve and thirteen are employed in glass, textile, mosquito coil, and other factories. In one factory visited recently by a foreign group and reported on by a Bangkok-based organization, the Child Workers in Asia Support Group, one hundred children (earning 70 cents a day) comprise more than half of the workforce. The children reported that supervisors hid them in toilets and large container boxes during visits by government labor inspectors.

In India, boys as young as ten work in dangerous occupations in glass and metal factories at wages of less than $1 a day. Employers provide no protective glasses, shoes, or gloves—no safety gear at all, not even for pouring red-hot molten metal. A report on conditions in India by the Child Workers in Asia Support Group states:

"Child workers in industrial situations are particularly vulnerable because of their unquestioning obedience to employers who place them in such hazardous circumstances [e.g., exposure to toxic substances] . . . . They are vulnerable also because of the class/caste situation. Employers do not care if the children live or die; so preventive measures are not taken."

Nobody knows the number of boys and girls under sixteen who hold down jobs across the world. No international agency has counted them because governments themselves seldom bother to count them. Ther are only estimates, and those vary widely and widely: The most commonly cited range from 80 million to 200 million. Even 200 million may understate the reality. In China alone, according to an estimate made by the United Nations' International Labor Organization (ILO) a few years ago, there were 40 million working children from ten to fourteen. Child labor exists throughout the underdeveloped world—in Asia, Africa, and Latin America. The examples in this article are drawn mostly from Asia because our organization is most familiar with this region.

Most child laborers engage in what economists call the "informal" sector . . . in activities such as hawking cigarettes at street corners, shining shoes outside hotels, selling vegetables from a road stand, repairing bicycles in an empty lot, harvesting crops on farms. This informal work often goes unreported. Also unreported is much of the child labor used by a growing number of small enterprises that have avoided the formality of registering for a license in order to escape taxes, regulation, tabulation, and compliance with child labor laws.

The problems of street children peddling pineapples and chewing gum are there for the public to see. Not so the situation of children working in registered or unregistered firms behind closed doors, which are almost never open to the public. With time and perseverance, however, it is possible to open some doors to get the facts. An enterprising reporter-photographer team from the Cox newspapers in 1987 traveled 65,000 miles and with difficulty managed to get into workshops of all sizes. Only twenty-four miles from the Taj Mahal, for example, they found boys under fourteen (some looking as young as eight) working in five of the country's largest glass factories. Their conclusion after visits to North Africa, Asia, and South America: "Children working sixteen hours a day, seven days a week in deplorable working conditions for pennies—that's the harsh reality of life in the Third World."

And according to information from the ILO, child welfare organizations, and various international unions, that reality is becoming harsher. As Third World countries struggle to develop their economies, they encounter pressure to lower—to ignore—labor standards that would diminish the comparative advantage (based on low labor costs) of their products on the world market. Also, the explosion of business creates jobs that, at no matter what the wage, magnetically attract impoverished youngsters.

Events in the People's Republic of China illustrate the point that child development and economic development do not necessarily go hand in hand. That country's steps toward liberalizing its economy have produced an explosion of multinational business activity in export-oriented firms, often operating out of Hong Kong. This development, hailed as a sign of progress (and certainly producing some progress) has had a retrogressive effect on children. The new freedom to foreign investors has granted them, or their intermediaries, the right to exploit the labor of children. According to a Chinese newspaper, 30 percent of school-age children, mostly girls, became dropouts to take jobs in Guandong province. Some Chinese factories work ten-year-olds for fifteen hours a day; others employ twelve year olds for fifteen-hour days for $10 a month, plus lodging (the girls sleep two and three to a bed in cramped quarters).

Although the English-language press seldom uncovers details of this kind of exploitation, *Business Week* in October 1988 reported on conditions in China's special economic zones located near Hong Kong. These zones, set up to attract foreign investors through tax advantages and other privileges, "have spawned twin horrors associated with old capitalism—child labor and illegal working hours," the *Business Week* article said. It cited the situation of Hung Biu Yun, a Chinese toy worker who claimed she was seventeen (the minimum legal working age) but looked closer to twelve:

"Hong Biu Yun is clearly exhausted as she sticks Mickey Mouse heads onto motorized toys at a factory in Shekou, China. One of twelve thousand mainland Chinese employed by Hong Kong's largest toymaker, Kader Enterprises Ltd., Hong works fourteen hours a day, seven days a week, to rush toys to American kids."

The pressure on Hong Biu Yun, the magazine reported, became more intense when rush orders arrived from the United States for the Christmas season: "Recently her hours grew even more oppressive: To meet the holdiay demand for Ghostbus-

ters, Big Hauler trains, and Mickey Mouse dolls, the girls at the Kader plant were ordered to put in one or two twenty-four-hour shifts each month, with only two meal breaks per shift."

Troubled by such abuses, Chinese government officials have pressured Kader to respect the law, but, in the words of a Kader executive in Hong Kong, Andy Lee, "We told them, this is the toy biz. If you don't allow us to do things our way, we'll close down our Chinese factories and move to Thailand."

Thailand may not be the country with the worst child labor problem in the world, but of late it has seemed that way, partly because the country has a free press, is open to outsiders, and has private groups actively doing something about the problem. Publicity and international pressure caused the government to briefly consider a number of reforms that are still far from being implemented. One was to raise the minimum age for workers from twelve to thirteen.

If that reform had been adopted, and if it was enforced, it still would not affect many thousands of boys and girls like Baulee[1], thirteen years old, employed in a small garment factory in Bangkok for $27 a month. She works from 9 in the morning till at least 9 in the evening, six days a week, sometimes on Sunday. About twenty-eight children and adults work, sleep, and eat three meals a day in the four stories of her employer's factory, which subcontracts jobs for an export firm.[2]

Cases like Baulee's are not exceptional. A Thai government agency, the National Youth Bureau, found boys and girls of thirteen and fourteen working in a wide range of manufacturing industries: food processing, textile, furniture, printing, chemical products, machinery, and metalware, among others. The bureau's study provided detailed case histories of child workers, such as Rungjaroen Pradabmee, thirteen, who planes and cuts wood by machine in a furniture factory. Six days a week Rungjaroen, like the forty-five other workers there, faces health and safety hazards in the dark, dusty, and poorly ventilated factory.

What may be a tempting solution for individual families, however, actually prolongs poverty in a developing country's economy. Samuel Gompers addressed the poverty dilemma of his time in a speech to an audience in Denver in 1888:

"I have seen tender children in the factories tending dangerous machinery, parts of which seemed to be constantly reaching out for their delicate limbs. This may seem necessary. But in this age of steam and electricity, and of rush after wealth, there should be a halt called somewhere.

"Some of you may be tempted to send your children out to work. A little fellow will bring home a dollar at the end of the week. That may seem a very grateful addition to the income. But don't you know that the child is employed because its labor can be had cheaper then that of a man? He becomes a competitor of his father. And if the father is not discharged, some other child's father often is. In this competition, the rates of labor are often so reduced that the combined wages of the father and child are less than the father's wages alone before . . . . It is bad [even] from an economic point of view to send young children out to work."

A similar viewpoint was express recently by Francis Tan, labor analyst of the Center for the Progress of People, a Hong Kong-based research organization. "In most Asia countries," Tan pointed out, "cheap child workers take jobs from adults, and since they do not have the chance to develop their talents in school, they will have little, besides their unskilled labor, to contribute to the economy when they become adults."

The child labor problem is so pervasive, and becoming more so in some of the industrializing economies of Asia, that even some child welfare advocates are content to rely solely on palliative measures: improving the working conditions of children (such as by providing safety goggles), shortening their hours, and providing them with on-the-job skills training. Such measures may be all that is possible in the most impoverished nations, but the world should never lose sight of the essential goal of eliminating child labor entirely.

Fortunately, despite the enormity of the problem, there is cause for hope. In almost every afflicted country, there are men and women, both within the govern-

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[1] Details about Baulee (not her real name) were obtained by Asian-American Free Labor Institute as part of a project designed to better understand the causes of child labor.

[2] Most multinational corporations prohibit their firms from hiring children under sixteen. But for parts and services, these same firms turn to contractors and subcontractors who are not bound by this same prohibition. After the Cox newspapers exposed the scandal of child labor in a group of Indian glass factories patronized by Corning Glass, Corning stopped purchasing from those suppliers. A Corning official said he was "surprised" by the Cox revelations, emphasizing that Corning was only "indirectly involved" with the offending suppliers. (This "indirect involvement," of course, was making products for Corning.)

ment and in the private sector, who see the evil of child labor and who, often at great sacrifice, are working to eliminate it. One of them is a former teacher, Panudda Boonpala, who heads the Child Workers in Asia Support Group. "We are lucky," she writes, "to be working with many persons across Asia who think positively."

Advocates of improved educational systems often lead the way to reform. "The single most important instrument for ensuring that children do not work," says ILO expert Assefa Bequele, is to have them attending school. That means at least three things:

gradually increasing the age of compulsory school attendance and enforcing it;

increasing resources allocated to education, including school lunch programs and elimination of school fees and other student costs that, while small for the well to do, are a burden for families barely able to eke out a living; and

finding other ways to make sure that school enrollment for children of the poorest of familes is not an impossible liability, for example, by making up on a transitional basis for at least a part of the modest but necessary income a family loses when a child quits his or her job.

Such ideas grow out of practical experience. In 1978, Kenya became the first country in Africa to provide free milk in school, and as a result, primary enrollment tripled in 1983. In South Korea, where a decade ago the workforce consisted of many twelve and thirteen year olds, child labor has almost dissappeared, thanks partly to a drive for universal education that now sees 90 percent of Koreans enrolled in school until they are sixteen.

Why don't more governments in the devoloping world do more for the education of children and their protection against exploitation? The barriers are many. For one thing, the process of development involves conflicting priorities. There is, for example, an impulse to show quick and visiable results by heavy investment in steel and concrete. As a result, governments in the devoloping world have been inclined to invest in unproductive heavy industrial projects, unnecessary military expenditures, and other non-economically sound endeavors at the exxpense of human development. When a budget does not include more money for education, a disproportionate share often goes to very expensive higher education, to the benefit of an already-favored elite. * Another barrier is the acceptance of traditional economic advice against the improvement of labor standards on the grounds that such "rigidities" will hinder economic growth. Also, fielding, training, and paying for inspectors to monitor compliance with labor standards is expensive and can often strain the weak governmental infrastructure that exists in many underdeveloped countries.

Outside critism of retrogressive policies and practices provokes negative reactions from leaders of developing nations. Typically, they respond by objecting to "meddling into internal affairs"—what they do within their own borders is their own business. Of course, the direct responsibility for changing priorities lies within each country itself. But in this modern age, to paraphrase John Donne, no country is an island. More than ever before, because of the growth of international trade, the low labor standards of one country can depress those of competing countries. As the Chinese official who asked Kader Toys to obey the law discovered, the labor policies of Thailand very much affect the well-being of workers and nations elsewhere.

In the realization that countries can best make social progress together, the ILO in 1973 adopted a convention (number 138) that established a set of minimum ages for employment:

fifteen as a general rule;

fourteen for countries "whose economy and educational facilities are insufficiently developed"; and

eighteen for any employment "likely to jeopardize the health, safety, or morals of young persons," with a loophole allowing a country to reduce that minimum to sixteen.

That convention, akin to a treaty, sets standards by which nations are supposed to regulate their labor affairs. So far, most nations have not ratified that convention, and even among the thirty-seven that have, some are not enforcing it. "There is a wide gap between law and practice," the ILO's Assefa Bequele points out.

Although U.S. law (and generally, though not always, practice) conforms to the requirements of the child labor convention, the United States itself has not ratified

* World Bank statistics, based on UNESCO data, show that in some Third-World Nations the cost of providing a student with one year of university education can be up to one hundred times that of providing a year of primary education. In contrast, in the develped world, the ratio is closer to two to one.

it (or most other ILO conventions), largely because of the opposition of employer groups who raise the specter that ratification could be a backdoor way to alter U.S. labor standards outside the normal federal and state legislative process. The failure of the U.S. to ratify the ILO convention weakens our moral position when we try to persuade other countries to improve their child labor conditions.

The ILO itself has no power to enforce its conventions. It is up to individual countries to put teeth into the standards. Of late, Congress has taken a set of ILO standards (without crediting the ILO) and inserted them into four foreign trade and investment laws. The U.S. government now can make a country's privilege of exporting into the United States contingent on observance of five "internationally recognized worker rights," including a minimum age for the employment of children. The most important such law so far has been the U.S. Trade and Tariff Act of 1984, which, in extending authorization for duty-free import privileges under the so-called Generalized System of Preferences (GSP), linked those privileges to recognizing worker rights, or at least "taking steps" in that direction.

The U.S. government has not taken advantage of this new lever against the exploitation of children abroad. In June 1987, the AFL-CIO filed the first of a series of petitions with the U.S. Trade Representative urging the withdrawal of GSP privileges from Thailand because of violations of worker rights, "most flagrantly the prohibition against child labor, which for many boys and girls in their early teens amounts to involuntary servitude." While U.S. officials were investigating those petitions, the Thai government responded by expressing renewed interest in its child labor problems, and even by discussing a number of reforms, including raising the minimum working age from twelve to thirteen, but so far, two years after the Reagan administration, impressed with Thai promises, decided in April 1988 to continue Thailand's GSP benefits.

Later, however, the U.S. did reduce some of Thailand's GSP benefits for another reason, one affecting U.S. business: Thailand's failure to halt piracy of U.S. copyrighted software and other violations of "intellectual property rights." In the belief that child protection doesn't deserve a back seat, Rep. Donald Pease (D-Ohio) is preparing legislation to impose civil and criminal penalties against those who import into the the United States products fabricated, assembled, processed, mined, or quarried by children under fifteeen.

Another potential lever for reform is UNICEF. Although it is the lead U.N. agency for children's rights, UNICEF does not take the lead in the battle against child labor. Far from it. One reason, says UNICEF Executive Director James P. Grant, is a lack of resources. But, as Tom Kahn, the AFL-CIO's Director of International Affairs, wrote recently to Mr. Grant, "How much does it cost to express the moral principle that eight- or nine-year-old children should not be abused by ten hours a day of factory labor? The issue here is not so much money as commitment."

That commitment is lacking because of a desire not to offend U.N. member governments in the Third World. But the U.S. government, with our tax dollars, provides the largest single source of money for UNICEF. An AFL-CIO executive council resolution in February formally urged the U.S. government to prod UNICEF to launch a campaign against child labor.

November 1989, marks the thirtieth anniversary of the adoption of the United Nations' Declaration of the Rights of the Child, which states, "The child shall be protected against all forms of neglect, cruelty, and exploitation. He shall not be the subject of traffic, in any form. The child shall not be admitted to employment before an appropriate minimum age; he shall in no case be caused or permitted to engage in any occupation or employment that would prejudice his health or education. . . ."

The lethargy on this issue internationally is illustrated by the fact that governments are still negotiating the text of a new convention on the Rights of the Child, first proposed in the late 1970's. It might be ready for consideration by the U.N. General Assembly by the end of 1989—hopefully in time to commemorate the tenth anniversary of the International Year of the Child. The convention's main weaknesses are that it sets no minimum working age for children and contains no ban on trade of products made by child labor.

Commemorations are fine, but they don't go far. Meanwhile, in the words of an ILO report, "Child labor continues to be a tragedy of our time." New, practical initiatives are needed. It is time for the international business community to assist in some way, perhaps by adapting and adopting something like the Sullivan Principles, which pledged foreign business firms in South Africa to the practice of nondiscrimination. Companies active in international commerce could no longer use the excuse that they are not responsible for the child labor practices of a contractor or subcontractor.

Aroused public opinion in the United States can also play an important role. As economists like to point out, American consumers are the prime beneficiaries of the new intregration of the world marketplace. Its products fill up our closets, our garages, our kitchens, and every other part of our homes. But a global economy must produce more than goods for some. It must also produce a better life, especially for children in countries producing the goods we enjoy. That will not happen until the global economy is shaped by global concern about exploitation of children in the labor force.

We need more American voices to echo Samuel Gompers': "Shame on such crimes! Shame upon us if we do not demand action against them!"

Child Labor in the U.S.: Its Growth and Abolition

(By Todd Postal)

Child Labor—the employment of children under sixteen outside of the home—and the fight to control it to have had a long history in American.

During the Colonial period, children were frequently hired out on a temporary basis to local farms and households. Since working children performed many of the same tasks for their neighbors as at home, the distinction between paid labor and family-based work was not sharp. In addition to this informal labor, a much more highly structured set of work arrangements existed in the ancient English institution of apprenticeship. Boys customarily began an apprenticeship between the ages of ten and fourteen. The apprentice-master relationship was rooted in a web of mutual responsibilities: Children learned a skilled trade by loyally following their master's orders; masters acted *in loco parantis*, providing vocational training and teaching their apprentices the rudiments of reading and writing.

The emergence of a factory system in the United States in the early nineteenth century changed all of this. By the 1830's, apprenticeship was systematically being replaced by wage labor in Pennsylvania, New York, and the New England states. This new form of industrial child labor differed from the older family-based model in several significant respects. Unlike family-based work, which was task oriented, industrial labor was time oriented. Child workers ate, rested, and worked by the bell. At home or in a master's workshop, children always knew the people who supervised them. This easy familiarity disintegrated with the spread of industrial child labor. The two worlds of work and home became clearly seperate. Finally, the obligation of employers decreased to the point where the only responsibility they were assumed to have was to pay their workers.

In 1870, when the federal Census recorded the number of working children for the first time, more than a quarter of a million children aged ten to fifteen were listed in nonagricultural occupations. By 1900, these figures peaked at nearly seeven hundred thousand. Since the Census excluded children under ten and usually missed juvenile workers in industrial homework, domestic service, and the street trades, these tabulations only hint at the true extent of child labor during these years. Charles Loring Brace, head of New York's Children's Aid Society, estimated in the early 1880s that there were at least 100,000 child workers in that city alone.

One way to prevent children from working was to keep them in school. As child labor reformer Florence Kelley declared in 1903: "The best child-labor law is compulsory education law covering forty weeks of the year and requiring the consectutive attendance of all children to the age of fourteen years." Between 1890 and 1918, every state in the U.S. passed some form of legislation mandating compulsory education. These Progressive-era acts often proved in ineffectual as they lacked provisions for adequate enforcement. The result was that thousands of underage youngsters left school to enter the job market.

In 1916 the first national child labor law, the Keating-Owen Act, was signed by President Wilson. This act prohibited the interstate commerce of goods produced by children under fourteen and established an eight-hour oay working youngsters under sixteen. Just nine months after it was put into place, the Supreme Court ruled that Keating-Owen exceeded the federal government's power to regulate interstate trade, and the act was found unconstitutional.

A second federal child labor law was enacted the following year, with the support of a potent reform group, the National Child Labor Committee. It imposed a 10 percent tax on the new profits of manufacturers who employed children below the age of fourteen. In 1922, the Supreme Court struck down this act as an infringement on the rights of individual states to impose taxation measures. Having syffered two serious defeats, reformers became convinced that the only way to control child labor was through the passage of a constitutional amendment. Throughout the 1920s, the

NCLC unsuccessfully sought to gain approval of the required number of state legislatures.

Advocates of child labor reform were encouraged when, in the early 1930s, the National Recovery Administration banned child labor below the age of sixteen in most industries. In an all-too-familiar senario, however, the NRA was invalidated by the Supreme Court in 1935. Ironically, opponents of child labor were now on the verge of their biggest victory. Three years after the NRA was overturned, the Fair Labor Standards Act incorporated many of the same limitations on interstate commerce as the old Keating-Owen act. It raised the full-time working age to sixteen and strictly limited the conditions of labor for fourteen and fifteen year olds. Unlike previous effors, the FLSA was not invalidated.

A key reason the FLSA was effective was that child labor was already in decline by the time the bill was passed. By 1940, automation and structural shifts within the maturing American industrial economy had made child labor increasingly unprofitable. Changes in family size and demographics and restictive immigration policies also contributed to the declining use of juvenile employment. But there were loopholes in the FLSA. Large numbers of children in migrant agriculture remained beyond the protection of the law well into the 1950s.

While it is reassuring to think that child labor is a thing of the past in the United States, it is important to recognize that violations of the laws do occur. There has been a general relaxation over the past decade of state regulations governing the number of hours children under sixteen can work. Not surprisingly, this has led to abuses of child labor statutes. A 1986 Massachusetts survey, for example, found underage juveniles illegally operating heavy earthmoving equipment, running power drill presses, and closing restaurants at 2 A.M. And earlier this year a certain fast-food chain, known for its sesame seed buns and its patronage of children's charities, was cited by Pennsylvania authorities for 466 alleged violations of state child labor laws.

ASSOCIATION OF FARMWORKER OPPORTUNITY PROGRAMS,
WASHINGTON, DC 20003,
March 14, 1991.

Hon. HOWARD M. METZENBAUM,
U.S. Senate,
Chairman, Subcommittee on Labor,
Washington, DC 20510.

DEAR SENATOR METZENBAUM: I want to take this opportunity to thank you for requesting our agency's opinion on S. 600, the "Child Labor Amendments of 1991." Strong evidence exists which shows dramatically that children who are hired workers in agriculture have been very negatively affected by the minimal protections which are afforded under the current law. The changes which have been proposed under S. 600 help to provide some of the increased protections which are needed. The association does, however, believe that children who are hired workers in agriculture should have the same labor standard protections that are provided for all other children. In light of this, we believe that the legislation does not go far enough.

The Association of Farmworker Opportunity Programs (ATOP) represents 37 organizations and state agencies that serve migrant and seasonal farmworkers in 48 states and Puerto Rico through more than 250 field offices located in rural agricultural America. These agencies, funded by the Job Training Partnership Act, Title IV, Section 402, operate employment, training, and supportive service programs for farmworkers.

The legislation which has been introduced is, in our opinion, moving in the right direction toward achieving equality for hired farmworker children. We, therefore, applaud your efforts of adding these additional protections for those working children who have no family ties to the farm owner or operator.

Sincerely,

LYNDA DIANE MULL,
Executive Director.

CHILD LABOR COALITION,
WASHINGTON, DC 20005,
March 18, 1991

Hon. HOWARD M. METZENBAUM,
Chairman,
Subcommittee on Labor,
Washington, DC 20510.

DEAR SENATOR METZENBAUM: Thank you for your outstanding leadership to help end exploitation of children in the workplace. The Child Labor Coalition was formed in response to the growing concern over the exploitation of children in the workplace. This Coalition of 32 national and international organizations believes that children are the promise of all societies and recognizes that exploitation of children in the labor market, both in the U.S. and throughout the world, represents a threat to their health, education, and well-being. Within the last half century, varied changes have occurred in the workplace, child labor violations have escalated, and injuries and death among our nation's youth have risen dramatically. Much has occurred because of deregulation and lack of enforcement of the law. As a result, the Child Labor Coalition has actively supported strengthening child labor laws and enforcement.

The Child Labor Coalition endorses Senate Bill S. 600, Child Labor Amendments of 1991, because it addresses several critical areas of concern. We applaud the tougher penalties for violations, improved certification procedures, and greater protections for children working in migrant agriculture. These changes are designed to discourage the exploitation of children in the workplace, thus protecting children.

In reviewing the legislation, however, two omissions are of concern:

1. Safeguarding the health and well-being of working men and women, a 40-hour work week is law. Today, however, it is common practice among our working 16- and 17-year-olds to handle 30 hours of school each week along with 40 hours of work. The potential of 70 hour weeks endangers not only their health and well-being, but also their education.

RECOMMENDATION: Restrict the number of hours 16- and 17-year-olds may work during a school week.

2. There are fewer than 1,000 Department of Labor compliance officers to enforce all labor laws in the U.S. In 1990, the U.S. General Accounting Office reported that compliance officer time spent on child labor law enforcement for all 50 states is the equivalent of 40 officers working full-time.

RECOMMENDATION: Increase the number of compliance officers to enforce child labor laws.

The inclusion of these recommendations would further protect our children and provide a stronger deterrent to violating child labor laws.

Sincerely,

LINDA F. GOLODNER,
Co-Chairperson.

CHILD WELFARE LEAGUE OF AMERICA, INC.,
WASHINGTON, DC 20001-2085,
March 11, 1991.

Hon. HOWARD M. METZENBAUM,
Chairman, Subcommittee on Labor,
Committee on Labor and Human Resources,
U.S. Senate,
Washington, DC 20510.

DEAR MR. CHAIRMAN: On behalf of the Child Welfare League of America (CWLA), I want to offer our strong support for S. 600, The Child Labor Amendments of 1991.

This legislation is an essential step toward providing children with the protection they need to become productive, self-sufficient adults. Going to school should be a child's most important job, but it is a job from which far too many children are increasingly absent as they work long hours. This not only jeopardizes their educational achievements, but it jeopardizes our nation's ability to compete in the world economy. It is time for serious and meaningful action to stem the alarming increase in child labor law violations.

We are, therefore, particularly pleased your legislation would take numerous steps to strengthen the enforcement of existing child labor laws, and to extend their protections to children under the of 14 employed as migrant or seasonal workers.

Your state certification requirements will not only better protect against labor law violations, but will as well better educate youth, their families and their employers about these laws and their protections.

We look forward to working with you and your staff for the immediate enactment of this essential legislation.

Sincerely,

DAVID S. LIEDERMAN,
Executive Director.

CHILDREN'S DEFENSE FUND,
WASHINGTON, DC 20001,
March 18, 1991.

Hon. HOWARD M. METZENBAUM,
Chairman, Subcommittee on Labor,
Committee on Labor and Human Resources,
Washington, DC 20510-6300.

DEAR CHAIRMAN METZENBAUM: I am writing to express the Children's Defense Fund's support for S. 600, the Child Labor Amendments of 1991, which you and Senator Metzenbaum have jointly sponsored. At a time when America's children must be striving for educational excellence this legislation represents an important series of steps to ensure that employment does not interfere with their educational progress or jeopardize their health and safety.

Recent U.S. Department of Labor reports document that child labor violations are on the rise. S. 600 strengthens enforcement of existing child labor laws by establishing criminal penalties for willful violations leading to injury or death, thereby helping to deter potential violators and making the workplace safer for young workers. The employment certificate provisions of the bill will help children and parents understand their rights so that they can avoid illegal and dangerous work situations. The certification process will also ensure that school is the number one priority for children younger than 16. Lastly, employers would be prohibited from hiring children younger than 14 as migrant agricultural laborers, ending the flagrant exploitation of such children in migrant farmworker communities that now threatens both their health and their educational progress.

In 1938, when the current child labor laws were first enacted, advanced education and strong and basic academic skills were not prerequisites to finding secure, decent-paying work. Today they are essential to advancement in the labor market. The amendments proposed in S. 600 will help children focus on the long-term success that can only come through educational achievement, while still allowing them to acquire the early work experiences that also can help them prepare for the transition from school to work. For these reasons, I urge prompt approval of S. 600, Child Labor Amendments of 1991.

Sincerely,

MARIAN WRIGHT EDELMAN,
President.

March 18, 1991.

Hon. HOWARD M. METZENBAUM,
U.S. Senate,
Chairman, Subcommittee on Labor,
Washington, DC 20510.

DEAR SENATOR METZENBAUM: The intent of this correspondence is to comment on the referenced legislation. Certainly S. 600 is moving in the right direction in providing enhanced protection for children. Proposed changes will assure children employed in agriculture increased protection under the law. I believe that more assurances are required to provide parity with other segments of the child labor work force.

Your efforts toward S. 600 are appreciated and supported.

Respectfully,

LIONEL L. CURTIS.

FARM LABOR ORGANIZING COMMITTEE
TOLEDO, OH 43602,
April 19, 1991.

Senator METZENBAUM,
Washington, D.C. 20510.

DEAR SENATOR METZENBAUM: We stand with you in support of your Senate Bill strengthening the child labor provisions agriculture. So many years have gone by with no real progress nor serious attention paid to the plight of America's migrant farmworkers. The oppression rooted in the agriculture industry is elusive to outside observers so we welcome this initiative and the public concern which it brings. Hopefully this will only be the beginning of a broader effort to remove obstacles that keep farmworkers from joining the rest of the American workforce and make conditions more attributable to the 20th century.

Sincerely,

BALDEMAR VELASQUEZ,
President.

FOOD AND ALLIED SERVICE TRADES,
WASHINGTON, DC 20006,
April 8, 1991.

Hon. HOWARD M. METZENBAUM,
U.S. Senate,
Washington, DC 20510.

DEAR SENATOR METZENBAUM: On behalf of the 3.5 million men and women affiliated with the Food and Allied Service Trades Department AFL-CIO I am writing to thank you for introducing S. 600, the Child Labor Act of 1991.

S. 600 will provide important protections for many of the workers in the industries our affiliates represent. Millions of children are employed in the food and allied trades as fast food counter personnel, short order cooks, retail clerks, agricultural workers and in literally thousands of other jobs.

Our nation's youth are working longer hours than ever. The result of that additional workload has at least partially contributed to the deteriorating status of American education. Young workers are unaware of their employment rights and are often taken advantage of by their bosses and managers.

The number of occupationally related injuries suffered by workers under eighteen has steadily increased during the last decade. S. 600 would take steps to reduce this inexcusable rise in injuries and deaths.

S. 600 is a solid piece of legislation that has earned the full support of this Department. We look forward to working with you and your staff as this bill progresses through the legislative process.

Sincerely,

KEITH R. MESTRICH,
Director of Special Services.

GEORGIA DEPARTMENT OF LABOR,
ATLANTA, GA 30303,
April 2, 1991.

Hon. HOWARD M. METZENBAUM,
Chairman, Labor and Human Resources Subcommittee on Labor,
Washington, DC 20510–3502.

DEAR SENATOR METZENBAUM: I am writing in response to the joint hearings held on March 19, 1991 on S. 600, which would amend the Fair Labor Standards Act to improve enforcement of its child labor provisions.

Let me begin by complimenting you for your efforts. This is an area much in need of attention, on both state and federal levels. The testimony you received from a number of organizations highlighted the inconsistencies, or even conflicts, between federal law and the laws of some states. The need for attention is further highlighted by the declining numbers of young people entering the labor market, and the resulting labor shortages facing some employers. This situation could give rise to increased abuse if we fail to establish appropriate preventative measures.

In whatever approach we take, I believe that it is essential to maintain a proper balance. While work can be good, healthy, and educational for young people, it must

not be allowed to detract from a student's in-school educational experience. From an enforcement perspective, we must ensure that young people receive adequate protection without so burdening employers, particularly small employers, that they will be discouraged from hiring those young people under the protection of child labor laws and regulations.

The U.S. Department of Labor has recently been doing a much better job in enforcing existing child labor laws and regulations. Their massive "Operation Child Watch" sent employers a clear message that violations will be detected and penalties assessed. If we are really sincere about increased policing, however, adequate funding must be provided on a continuing basis. I am concerned that S. 600 will have the effect of substantially increasing the costs to the states without providing funding to offset those costs. This state (and I suspect you will find that most other states are in a similar position) does not have additional funds available. The Wagner-Peyser dollars which operate our unemployment insurance and employment services programs cannot be used for these purposes. Even if they could, they are currently inadequate to operate the programs they are intended to fund.

We would be most interested to see what could be accomplished with a small amount of additional federal dollars used to fund several state demonstration projects. I believe that what we would learn from such an approach could benefit the entire system and produce a most reasonable return on the investment. I would also submit that it would be beneficial for the U.S. Department of Labor to sponsor an annual national meeting or regional forums at which state child labor units could exchange information on best practices and the latest ideas and technology could be shared.

Adequate funding of increased enforcement or data collection activities is important not only to state departments of labor, but to school systems which are the first line of screening in the work permit process. Several ideas advanced by school administrators are worthy of further exploration, but it would be important to include funding for the increased costs.

A number of suggestions have been advanced which I believe are worthy of further examination. In considering each of them, however, we must keep in mind the need for balance. Schools could benefit from receiving information of violations and enforcement actions. This would assist them in screening applications for work with employers who have been past violators. Similarly, information could be provided to schools on deaths and injuries suffered by students while on the job. Minimum attendance requirements and minimum levels of academic achievement could be appropriate prerequisites for work permits, provided that adequate provisions were made for hardship cases. Family involvement, which is also important, might be enhanced by ensuring that parents or guardians are provided with copies of all work permits.

The bottom line, if we are to adequately prepare young people to participate successfully in the workforce of the 21st century, must be to ensure that work does not unnecessarily endanger young people nor detract from their education. Work should, on the other hand, enhance their educational experience. The actions we take, whether through amending the law or making changes in federal and state regulations, must advance that end.

I have taken the liberty of enclosing some of the materials on child labor that we have gathered over the years. There are also many excellent ideas in the literature and in the testimony you received at the joint hearing. Your interest in this important area is most appreciated. We appreciate the opportunity to share our comments with you and would welcome further dialogue.

Sincerely,

AL SCOTT,
Commissioner of Labor.

INTERNATIONAL LADIES' GARMENT WORKERS' UNION,
WASHINGTON, DC 20006,
March 18, 1991.

Hon. HOWARD M. METZENBAUM,
Chairman, Subcommittee on Labor,
Washington, DC 20510.

DEAR CHAIRMAN METZENBAUM: The International Ladies' Garment Workers' Union has long worked to reform the laws governing child labor in this country. We are very pleased, therefore, that you and Senator Dodd have introduced S. 600, the

Child Labor Amendments of 1991. This legislation represents an important step forward and we are pleased to support it.

However, the legislation as written does not address two a particular issues crucial to the reform of child labor laws: hours of work for teenagers and enforcement of the new standards. It is our hope that you and Senator Dodd will consider adding provisions to address these issues.

Specifically, we would like to see a provision limiting the number of hours that 16 and 17 year olds may work. Many states have begun to limit the hours of work for youth of this age. The child labor bill introduced in the House of Representatives last year included such limitations and the bill currently being drafted by Members of the House also includes such a provision. While 16 and 17 year olds may be old enough to work, their primary responsibility should be their education. Limitations on allowable hours of work for 16 and 17 year olds will help to ensure that these young people get the education they need, the education that will enable them to be successful adults.

An omission that is perhaps even more troubling than that described above is the lack of any provision to increase the number of compliance officers responsible for enforcing the new standards created by the bill. New child labor standards will be successful only if they can be fully enforced. In the garment industry, in agriculture, and in many other industries, violations of current child labor standards are widespread but rarely caught. This is because of the limited number of compliance officers available to investigate and to enforce the standards. The ILGWU believes strongly that S. 600 should include a provision providing for funds to hire additional compliance officers to work specifically in the area of child labor. This would give "teeth" to the new standards and hope to the children who now labor illegally.

Respectfully,

EVELYN DUBROW,
Vice President and Legislative Director.

JEWISH LABOR COMMITTEE,
NEW YORK, NY 10010–6297,
March 14, 1991.

Hon. CHRISTOPHER J. DODD,
Chairman, Senate Subcommittee on Children, Family, Drugs and Alcoholism,
Committee on Labor and Human Resources,
Washington, DC 20510–6300.

ATTN: Jackie Ruff

DEAR MR. CHAIRMAN: On behalf of the Jewish Labor Committee, I wish to convey to you our strong support of S. 600, the Child Labor Amendments of 1991.

The Jewish Labor Committee has long been concerned with the exploitation of children in the labor force. Such exploitation poses an unacceptable threat to a child's health, well-being and education. We have therefore been dismayed with the lax administration of child labor laws. The Jewish Labor Committee has joined with other organizations in the Child Labor Coalition to educate the public about child labor exploitation, to strengthen existing protections against exploitation of children and to work for better enforcement of protective child labor laws and regulations.

Enactment of S. 600 will address these concerns. The Child Labor Amendments of 1991 will strengthen the federal child labor law through tougher penalties for violations, increased public awareness of the dangers of child labor exploitation through expanded use of employment certificates and more effective protection of children working in migrant agriculture.

We strongly subscribe to the objectives of S. 600, the Child Labor Amendments of 1991, and urge its immediate enactment followed by vigorous implementation.

Sincerely,

BERT SEIDMAN,
Washington Representative.

LEAGUE FOR INDUSTRIAL DEMOCRACY,
WASHINGTON, DC 20005,
March 18, 1991.

Senator CHRISTOPHER J. DODD,
Senator HOWARD M. METZENBAUM,

DEAR SENATORS DODD AND METZENBAUM: As a member of the Child Labor Coalition, the League for Industrial Democracy is very concerned about the effectiveness of child labor laws, and will be interested in the outcome of the upcoming hearings.

Obviously legislation is important, but without proper enforcement through an increased number of compliance workers, the laws are ineffective. The League for Industrial Democracy does endorse S. 600 and will continue to support the efforts of the Child Labor Coalition.

Sincerely,

MOIRA MCDAID,
Administrative Director.

MIGRANT CLINICIANS NETWORK,
AUSTIN, TX 78704,
March 18, 1991.

Senator HOWARD METZENBAUM.

DEAR SENATOR METZENBAUM: The Migrant Clinician Network supports Senate bill 600 and strongly urges the United States Senate to further expand coverage. We strongly believe that Child Labor Laws should be inclusive and provide equal protection for children in the fields. We reject the fraudulent arguments of the last 50 years which justify treating children in agriculture differently from other children in our society. The current double standard is discriminatory. Child labor does result in unnecessary illnesses, injuries, deaths, and premature disabilities as well as contributes to unacceptable and disastrous educational morbidity.

We have enclosed a copy of our position statement on child labor from last year. Our position is supported by two authoritative articles by Dr. Rivara at the University of Washington and Doctors Pollack and Landrigan of Mount Sinai.

Please reconsider the scope of the Bill. We recognize and commend you on the improvements that are contained in the current measure.

Respectfully,

PAUL M. MONAHAN, M.D., CHAIRMAN,
SAL SANDOVAL, M.D.
MARY JULE KULKA,
Occupational Health Subcommittee of the Migrant Clinician Network.

NATIONAL CONSUMERS LEAGUE
WASHINGTON, DC 20005,
March 18, 1991.

Hon. HOWARD M. METZENBAUM,
Chairman, Subcommittee on Labor,
Washington, DC 20510.

DEAR SENATOR METZENBAUM: Thank you for your outstanding leadership to help end exploitation of children in the workplace. Child labor has been of long-standing concern to the National Consumers League (NCL). In 1899, NCL was founded because of concern about sweatshop conditions and child labor. In its early years, NCL helped draft the child labor components of the Fair Labor Standards Act of 1938. Within the last half century, varied changes have occurred in the workplace, child labor violations have escalated, and injuries and death among our nation's youth have risen dramatically. Much has occurred because of deregulation and lack of enforcement of the law. As a result, NCL has actively supported strengthening child labor laws and enforcement.

NCL endorses S. 600, Child Labor Amendments of 1991, because it addresses several critical areas of concern. We applaud the tougher penalties for violations, improved certification procedures, and greater protections for children working in migrant agriculture. These changes are designed to discourage the exploitation of children in the workplace, thus protecting children.

In reviewing the legislation, however, two omissions are of concern:

1. Safeguarding the health and well-being of working men and women, a 40-hour work week is law. Today, however, it is common practice among our working 16- and 17-year-olds to handle 30 hours of school each week along with 40 hours of work. The potential of 70 hour weeks endangers not only their health and well-being, but also their education.

RECOMMENDATION: Restrict the number of hours 16- and 17-year-olds may work during a school week.

2. There are fewer than 1,000 Department of Labor compliance officers to enforce all labor laws in the U.S. In 1990, the U.S. General Accounting Office reported that compliance officer time spent on child labor law enforcement for all 50 states is the equivalent of 40 officers working full-time.

RECOMMENDATION: Increase the number of compliance officers to enforce child labor laws.

The inclusion of these recommendations would further protect our children and provide a stronger deterrent to violating child labor laws.

Sincerely,

LINDA F. GOLODNER,
Executive Director.

NATIONAL COUNCIL OF SENIOR CITIZENS,
WASHINGTON, DC 20005,
March 15, 1991.

Hon. CHRISTOPHER J. DODD,
Chairman, Senate Subcommittee on Children, Family, Drugs and Alcoholism,
Committee on Labor and Human Resources,
U.S. Senate,
Washington, DC 20510.

DEAR SENATOR DODD: The National Council of Senior Citizens (NCSC), on behalf of our five million members and 4,800 clubs and Councils nationwide, strongly endorses S. 600, the Child Labor Amendments of 1991.

Seniors are critically concerned about the exploitation of this nation's children and our grandchildren. Having heard from our membership on this issue, NCSC has chosen to affiliate with the Child Labor Coalition and subscribes to the Coalition's support for S. 600. This legislation will strengthen the Federal child labor law through tougher penalties for violations, increase public awareness of the dangers of child labor exploitation and provide more effective protection of children working in migrant agriculture.

We urge the Senate to act quickly on this important bill and to enact it without any weakening amendments.

Sincerely,

LAWRENCE T. SMEDLEY,
Executive Director.

THE NATIONAL PTA,
WASHINGTON, DC 20036,
March 19, 1991

Hon. CHRISTOPHER J. DODD,
Chair, Subcommittee on Children, Families, Drugs and Alcoholism,
Washington, DC 20510.

DEAR SENATOR DODD: Protecting the health and welfare of children and youth in the labor force is the very reason why the National PTA organized 93 years ago. We have long asserted that the federal government must protect young employees from abusive working conditions. Laws, regulations and oversight are essential if society is to ensure that work environments for young laborers are safe. S. 600, the Child Labor Amendments, is a measure that will help protect youth in the work place.

Our association is pleased that the legislation expands the list of hazardous occupations for young workers to safeguard a wider range of occupations, including migrant workers. We urge you to reinforce the need for strict enforcement of regulations that prohibit youth from operating electronic slicing and mixing machines. Many of the reported injuries are the result of minors working on meat processing and mixing equipment.

The National PTA applauds the inclusion of provisions in S. 600 that would require employers to report work-related deaths and injuries of minors to the states

within one week. Equally important, is the condition that the States prepare and disseminate this data to the public. We also support harsher penalties and fines, as set-forth in S. 600, for employers who willfully violate child labor laws.

Sec. 3 (3) of the bill requires school districts to post the names of employers, found to violate child labor practices. We ask that you examine additional methods of getting this information into the hands of students and their parents.

Finally, strengthening the foundation for how certificates of employment are issued is sound public policy. The process, as outlined in S. 600, establishes a mechanism whereby the state agency, the employer and the employee as well as the parent of a minor are more informed, and therefore more accountable.

The 6.8 million member National PTA believes in the work ethic for our youth, but also feels that, young people must be protected from work place exploitation and abuse. Employers and parents must help minors balance work with school responsibilities. Further, employers cannot allow ignorance of labor protections or willful violation of the law to place young persons in jeopardy. Too many young workers have paid the price these practices through injuries and death.

We thank you for your leadership on this issue and will work to help ensure passage of S. 600.

Sincerely,

ARLENE ZIELKE,
Vice-president for Legislative Activity.

NATIONAL YOUTH EMPLOYMENT COALITION,
NEW YORK, NY 10036,
March 18, 1991.

Hon. Senator HOWARD M. METZENBAUM,
Chairman, Subcommittee on Labor,
U.S. Senate,
Washington, DC 20510-6300.

DEAR SENATOR METZENBAUM: The National Youth Employment Coalition, representing 60 youth-serving organizations nationwide, is very pleased that you are holding hearings tomorrow on child labor legislation. The exploitation of young children in the workplace, from agriculture to sweatshop, is shameful and undercuts the legitimate needs of older youth as they enter the labor market. Thank you for your important efforts in this regard.

Sincerely,

LINDA R. LAUGHLIN, PH.D.,
Executive Director.

SOCIAL DEMOCRATS, USA,
WASHINGTON, DC 20005,
March 15, 1991.

Hon. HOWARD M. METZENBAUM,
Chairman, Subcommittee on Labor,
U.S. Senate,
Washington, DC 20510.

DEAR SENATOR METZENBAUM: We have received your notice of the hearing on S. 600, Child Labor Amendments of 1991. Social Democrats, USA is a member organization of the Child Labor Coalition, and we are therefore very interested in the outcome of these hearings.

We endorse S. 600, but would like two additional items included to strengthen the legislation. We feel it is important to reduce the number of hours that 16- and 17-year olds are allowed to work. Furthermore, we feel it is crucial to increase the number of compliance workers to ensure that the law is enforced as intended.

Sincerely,

DON SLAIMAN,
President.

RITA FREEDMAN,
Executive Director.

TELAMON CORPORATION,
SALISBURY, MD 21801,
March 18, 1991.

Hon. HOWARD M. METZENBAUM,
U.S. Senate,
Chairman, Subcommittee on Labor,
Washington, DC 20510.

DEAR SENATOR METZENBAUM: I would like to express my, support for S. 600, the "Child Labor Amendments of 1991." Strong evidence exists which shows dramatically that children who are hired workers in agriculture have been very negatively affected by the minimal protections which are afforded under the current law. The changes which have been proposed under S. 600 will provide some of the increased protections which are needed. However, I believe that children who are hired workers in agriculture should have the same labor standard protections that are provided for all other children. In light of this, I believe that the legislation does not go far enough.

Telamon Corporation funded by the Job Training Partnership Act, Title IV, Section 402, provides employment, training and supportive service programs for farmworkers in eight states. Through our close work with farmworkers we are very aware of the child labor abuses still existing.

The legislation which has been introduced is a step in the right direction toward achieving equality for hired farmworker children. I, therefore, applaud your efforts to add these additional protections for those working children who have no family ties to the farm owner or operator.

Sincerely,

KAREN WEBSTER,
State Director.

TELAMON CORPORATION,
MARTINSBURG, WV 25401,
March 18, 1991.

Hon. HOWARD M. METZENBAUM,
U.S. Senate,
Chairman, Subcommittee on Labor,
Washington, DC 20510.

DEAR SENATOR METZENBAUM: I am writing in reference to S. 600, the "Child Labor Amendments of 1991."

As an agency who works daily to serve the needs of farmworkers and their children via the JTPA Title IV, Section 402 program, we support the intent of this bill to add the labor protections addressed in this piece of legislation. In addition, however, we believe that children who perform agriculture work should have the same labor standard protections that are granted by law to all other children in nonfarm occupations. Therefore, we feel that this legislation should and could go further and are hopeful this will be addressed as appropriate.

We are encouraged with the direction of the S. 600 legislation and applaud your efforts of these additional protections being provided the children working who have no family ties to the farm operator or owner.

Sincerely,

JAMES A. DLHOSH,
State Director.

TELAMON CORPORATION,
ATLANTA, GA 30309,
March 18, 1991.

Hon. HOWARD M. METZENBAUM,
U.S. Senate,
Chairman, Subcommittee on Labor,
Washington, DC 20510.

DEAR SENATOR METZENBAUM: I want to take this opportunity to thank you for requesting our agency's opinion on S. 600, the "Child Labor Amendments of 1991". As an agency which serves Georgia Farmworkers under Job Training Partnership Act Title IV Section 402, we are very concerned about protecting children.

Strong evidence which shows dramatically that children who are hired workers in agriculture have been very negatively affected by the minimal protections which are afforded under the current law. The changes which have been proposed under S. 600 help to provide some of the increased protections. We believe that children who are hired workers in agriculture should have the same labor standard protections provided for other children.

The legislation which has been introduced is, in our opinion, moving in the right direction toward achieving equality for hired farmworker children. We, therefore, applaud your efforts of adding these additional protections for those working children who have no family-ties to the farm owner or operator.

Sincerely,

PATRICIA ADAMS,
State Director.

TELAMON CORPORATION,
COLUMBIA, SC 29211-2217,
March 18, 1991.

Hon. HOWARD M. METZENBAUM,
U.S. Senate,
Chairman, Subcommittee on Labor,
Washington, DC 20510.

DEAR SENATOR METZENBAUM: This letter is in support of S. 600, the "Child Labor Amendments of 1991." Improved legislation to help correct the inequity that has existed within the present laws is long overdue. Child labor laws have proven to be negligent when it comes to protecting children who are hired to work in agriculture. In fact, these children should be afforded the same labor standard protections provided children in other industries, but are not. We therefore urge you to continue to push toward that goal until all inequities are eliminated.

Telamon-South Carolina is part of an eight state corporation that serves migrant and seasonal farmworkers. We are funded, individually, by the Department of Labor—Job Training Partnership Act, Title IV, Section 402. We provide supportive services training, and employment to eligible farmworkers.

Your efforts to better the existing laws are to be commended and are appreciated by those who work with the farmworker population. S. 600 is a step in the direction of achieving equality for hired farmworker children. It is anticipated that the passing of this legislation will lay new foundation from which future improvements in protection laws can be built.

Continued, success in your fight for equality for all people.

Sincerely,

BARBARA B. COLEMAN,
State Director.

INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE AND AGRICULTURAL IMPLEMENT WORKERS OF AMERICA—UAW,
WASHINGTON, DC 20036,
March 18, 1991.

Hon. HOWARD M. METZENBAUM,
Chairman, Subcommittee on Labor,
U.S. Senate,
Washington, DC 20510.

DEAR MR. CHAIRMAN: We understand that the Subcommittee on Labor of the Senate Labor and Human Resources Committee is conducting a hearing on Tuesday, March 19, 1991 on the proposed Child Labor Amendments of 1991 (S. 600). The UAW strongly supports this legislation, which would strengthen the enforcement of 'our child labor laws. We would appreciate it if you would include this letter in the hearing record.

The proposed Child Labor Amendments of 1991 are needed in order to address the growing problems associated with the use of child labor in this country. Although child labor laws have been on the statute books for over fifty years, it has become apparent that our current laws are not sufficient to deter unscrupulous employers from exploiting children.

The proposed legislation would take a number of steps to strengthen the enforcement of our child labor laws. In particular S. 600 would:

establish criminal sanctions for willful violations;

make willful and repeated violators ineligible for federal grants, loans or, contracts for five years;

require the Department of Labor to compile and make available to school districts the names of employers who violate child labor laws;

require certificates of employment for minors under the age of 18 who do not have a high school diploma;

provide protection for minors under the age of 14 who are migrant or seasonal agricultural workers; and

expand the list of hazardous occupation for teenagers to include poultry processing, fish and seafood processing, and pesticide handling.

Mr. Chairman, the UAW commends you and Senator Dodd for your leadership in introducing S. 600. We believe this legislation would help to correct abuses associated with the employment of children in this country. We urge your Subcommittee and the entire Senate to give this legislation prompt, favorable consideration.

Sincerely,

DICK WARDEN,
Legislative Director.

WORK ACHIEVEMENT VALUES AND EDUCATION,
WASHINGTON, DC 20024-2754,
March 15, 1991.

Hon. HOWARD M. METZENBAUM,
Chairman, Subcommittee on Labor,
Washington, DC 20510-6300.

DEAR SENATOR METZENBAUM: On behalf of the many thousands of young people served by WAVE, Inc., please accept my thanks for the hearing you are holding on child labor issues and for your sponsorship of S. 600.

Although the expansion of American technology and the ever-changing labor market has created new debates about the role of young people in the workplace, no one can seriously argue that we should be less vigilant in the protections we afford them when they do work. I, therefore, encourage you to expand and improve the protection that our federal laws grant to the youngest and most vulnerable of our citizens.

Sincerely,

LARRY BROWN,
President.

YAKIMA VALLEY FARM WORKERS CLINIC,
March 14, 1991.

Senator BROCK ADAMS,
324 Hart Bldg., Room 513,
Washington, D.C. 20510.

DEAR SENATOR ADAMS: I am writing to support Senate bill 600 and request that this statement be submitted as a supporting document for this proposed legislation.

It is a fact in the United States that children working in agriculture are denied the same protective regulations that apply, to children in other working environments. This partial exclusion of children in the fields is discriminatory and unfairly places thousands of youngsters "in harms way".

The initial exclusion of farm workers in general from coverage by the Fair Labor Standards Act was understandable, considering the political reality of 1938. In an attempt to achieve maximum gain for as many workers as possible, it was politically expedient to exclude agricultural workers. Unfortunately this set a precedent that has been maintained in many states for more than 50 years. This, a governmental double standard has significantly contributed to the economically depressed status for field workers.

As understandable and necessary as the 1938 political compromise may have been, it was also blatantly unfair. Many states have passed regulations overcoming this national neglect which has become an embarrassment.

In 1990 thousands of employers were cited for child labor violations. Most of these same labor practices would have been "OK" on the farm.

Farm work is dangerous. The U.S. Department of Labor consistently ranks farm work as the first or second most hazardous occupation in the country.

Certainly children laboring in such a workplace merit adequate protection.

My introduction to the hazards of child labor occurred in the early 1970s. I was called to the Emergency Room to evaluate a 14 year old boy who had been injured while working in hop harvest. A tractor had driven over his head. He had fallen asleep in the mid afternoon from exhaustion . . . exhaustion from having been involved in hop harvest campaign, working 12 to 14 hour days, 80 plus hours per week. Miraculously, he was not severely injured since his head had been in a depressed furrow in the field. His terror was justified by the tractor treads across his forehead. I was reminded of this episode in September 1988 when a second 14 year old boy was killed; his head was crushed by a tractor in hop harvest. He too had fallen asleep. After all, it was 2 in the morning in mid September. In the day time he was attending school. I have enclosed a copy of the brief news article. It should have been front page headlines.

Between those two events, I have seen other deaths first hand. I was called in the middle of the night in the mid 1970s to assist in the resuscitation of a 17 year old girl who had experienced a respiratory arrest. She had been in the hospital for several days following a tractor accident. There had been an enormous scalp/facial laceration, and after repair it had apparently become secondarily infected—and this resulted in a respiratory obstruction. She experienced anoxic brain damage and died within a day or so. And then there was the Saturday afternoon when I was called to the Emergency Room again to try to resuscitate a 16 year old boy who had been electrocuted along with two other workers. The farmer was using them to help construct a grain bin in 1982—the heavy equipment boom hit power lines and the three workers were instantly killed. Had this work activity been defined as construction work rather than inappropriately labeled, "agricultural work", then the employer would have suffered severe penalties. Since it was merely agriculture, apparently there were no violations. Had it been construction, the 16 year old wouldn't have been in that situation.

And then there was the youngster (4 years old?) who was decapitated by a passing automobile as his family was crossing an unpaved road to begin asparagus harvest between 4 and 5 in the morning: He is probably included as a motor vehicle/pedestrian statistic rather than an agricultural victim. Another Clinic physician had to deal with the grieving parents. And the tractor crush-death of my son's high school friend—but then he was 18 or 19 years old.

Such catastrophes are fortunately uncommon. The fact is that they are also unnecessary and should not occur. In addition to such visible but episodic tragedies, there are many other adverse consequences of child labor. While these other consequences are less obvious, and receive little attention, they may be much more important overall.

One such health concern relates to hazards from pesticides recent personal communications with the Department of EPA revealed that "Pesticide exposure to children is an issue which continues to be of concern to the Agency", but that "the significance of juvenile exposure to pesticides . . . is unclear". Given the increased worries in California about clusters of unusual cancers occurring in children in small rural towns, and given the fact that there is a general lack of information concerning chronic/carcinogenic/ immunologic, and other effects from most currently registered pesticides, it would be prudent to presume that these toxic agents are, in fact, toxic. The burden of proof should not be on children to demonstrate and prove the toxicity. Exposure of field workers is a fact. Agricultural workers all have a much higher body burden of pesticides. Prevention is the key.

The consequences of *repetitive overuse* injuries become evident only after years and years. The numbers of farm workers who are disabled from back problems is staggering. Many men and women in their 30s and 40s can no longer function in the fields and yet are educationally unable to do other types of work, creating a problem of enormous economic proportion. The impact of such disabilities on families is overwhelming. Most back disabilities are not the result of a single injury episode, but rather the result of years and years of stoop labor and heavy lifting. Many of these individuals began this type of work in their youth. Many who are disabled at a young age have already put in 30 years of hard labor. Economically, it makes no sense at all.

Little League Rules prevent pitchers from throwing curve balls and sliders in an effort to protect their elbows. We should apply the same principle with stoop labor in the youngsters under 16 years of age.

The medical problems resulting from *field sanitation* problems, i.e. gastrointestinal illness, hepatitis, parasitic infections, urinary infections, heat prostration, etc., have been described and recognized. This recognition finally resulted in OSHA regulation changes in 1987. Surveys nationwide reveal variable compliance with these

regulations, i.e. many farm operations do not provide toilets, water, etc. . . . The reality is that these health concerns remain a problem and that children are much more susceptible to infectious diseases than adults.

The greatest morbidity from child labor may not be health conditions. *Educational morbidity*, with the resultant stunted social employment and career option, is a tragedy of enormous magnitude. . . These social and economic consequences are far greater than the limited economic benefits from working children for their families and for farmers. The drop out ratio in children of migrant farm workers in Washington state approaches 80 percent, Allowing high school students to be employed more than 20 hours a week jeopardizes their academic career and their future occupational potential. The hourly limitations that apply to other working environments should apply for agriculture.

This child labor issue should be decided on the basis of fairness and not on the basis of politics and economic power. A different set of rules should not apply to children in the fields. It is wrong to perpetuate the official, legalized double standards that now exist.

Physicians in the Yakima Valley Medical Society overwhelmingly voted (81 percent in April, 1990) to endorse the concept that children in agriculture should receive the same work place protection as children employed elsewhere.

The "UNEVEN PLAYING FIELD", is a classic political metaphor describing unfair situations, and it is usually followed by a pledge to do something about that unfairness. The regulatory exclusions of farm workers and their children represents a classic example that yet is legal. I am personally embarrassed as a trained physician who has sat back and pragmatically accepted such arbitrary and unfair conditions. It took a second 14 year old boy who had his head crushed while falling asleep during hop harvest to humiliate me. What will it take to prod the political process to make amends for half a century of discriminatory rules? What does the Department of Justice Civil Rights have to say about this process? The child labor issue is a window into a regulatory history that can be categorized as scandalous with respect to farm workers (FLSA, NLRB, OSAH, FIFRA). In the National goals for the year 2000, there is a statement that exclusionary regulations should be eliminated. I don't think we should wait 10 years.

Thank you for the opportunity to submit these comments. I apologize for lapses of rhetoric but, in truth, my comments understate the work place reality and life suffering that result from regulation violence.

Senator Adams, as you know, farm workers and their children have no political clout. They need your support considering these comments.

cc: Senator Howard Metzenbaum
cc: Senator Thomas Dodd
cc: Senator Edward Kennedy

PAUL M. MONAHAN, M.D.

Senator METZENBAUM. Current child labor law is woefully inadequate to protect our children in the workplace. Without the threat of significant criminal penalties for child worker deaths and serious injuries, current law invites potential violators to treat such tragedies as just another cost of doing business. In addition, our law allows the exploitation of children under the age of 14 who work as migrant and seasonal farmworkers. Look at these pictures of some of those children working out in the field. The law also has no provisions to help ensure that children, parents and employers have some knowledge about even the most basic child labor protections.

S. 600 will help to ensure workplace protections for children by strengthening the enforcement scheme for child labor violations and providing basic data on child labor practices. In addition S. 600 incorporates former Secretary Dole's recommendation that the Fair Labor Standards Act be amended to allow imprisonment on the first conviction for any willful violation of Federal child labor laws, rather than only upon a second conviction as provided under current law.

I will include a summary of S. 600, the Child Labor Amendments of 1991, in the record.

[The summary referred to follows:]

SUMMARY OF THE CHILD LABOR AMENDMENTS OF 1991

Introduced by Senators Howard M. Metzenbaum (D-OH) and Christopher J. Dodd (D-CT)

Will strengthen the enforcement scheme for child labor law violations and also provide basic data on child labor practices.

Specifically, the bill:

establishes criminal sanctions for willful violations of child labor laws that result in the death of a child (maximum 10 years in prison); and willful violations that result in serious bodily injury to a child (maximum 5 years in prison);

provides that willful and repeated violators of child labor laws are ineligible for federal grants, loans, or contracts for 5 years, and also are ineligible to pay the subminimum youth training wage;

requires the Department of Labor to compile and make available to school districts the names and addresses of child labor law violators and the exact nature of the violation;

requires certificates of employment for minors under the age of 18 who do not have a high school diploma; this will set minimum standards for protecting children in the workplace, educate parents, children, and employers about child labor laws, and provide basic data on child labor in the United States;

provides protection for minors under the age of 14 who are migrant or seasonal agriculture workers; the bill does not affect in any way the current provision exempting children who work on family farms;

expands the list of hazardous occupations for teenagers to include poultry processing, fish and seafood processing, and pesticide handling.

For additional information on S. 600, contact the Senate Subcommittee on Labor at (202) 224-5546 or the Senate Subcommittee on Children, Family, Drugs, and Alcoholism at (202) 224-5630.

Senator METZENBAUM. I look forward to the testimony from today's witnesses, including the personal accounts of two young people who experienced firsthand the abuses of the workplace. We will also hear from the United States Department of Labor, a State labor official, and representatives of the medical, educational and business communities.

With our victory in the Persian Gulf, we now talk of a "new world order" but we still allow our children to work under conditions that prevailed in the 1800's. I shudder to think that children who are the same age as my own grandchildren are being robbed of an education, their limbs, and indeed their lives through illegal child labor.

The Child Labor Amendments of 1991 represents a major effort to put a stop to these shameful practices.

The pictures displayed here this morning are of cucumber farmers in northwest Ohio. They indicate that very young children are doing difficult work under hazardous conditions. I am advised that there have been a number of tragic accidents where trucks or tractors—as you can see, children are sheltered under the back of the truck—have rolled over little children who were taking shelter in their shadow.

At this point, before turning to our first panel, we would like to show a brief segment from a recent television documentary on the child labor issue. The documentary, "Danger: Kids at Work", was produced by the Lifetime Cable Network and has been aired throughout the country over the past several weeks. While this program examined a number of workplace settings where child

labor violations are most prevalent, the segment we will see this morning focuses on one of the least-known but most dangerous in America today—garment industry sweatshops—where children are as much at risk in 1991 as they were a century ago.

Roll the film.

[Transcript of Videotape follows:]

DANGER: KIDS AT WORK

[VOICE-OVER]. These are the pictures from turn of the century America. In our factories, textile mills and coal mines, 25 percent of the workers were children, slaving away in horrendous conditions, working long hours for low wages, losing their childhoods and sometimes their lives. These children had no protections from the dangers of the workplace. These children do. Kids at work in America today, protected by laws, but still underage, underpaid, as much at risk as children a century ago. In the garment districts of our cities, children are a shockingly large part of an underground labor force, working in factories that can only be described as sweat shops.

Ten am., a school day, New York's Garment District. A state labor task force begins a surprise search of sweat shops—purpose: find the kids working illegally.

STATE LABOR INVESTIGATOR. Hi. Do you work here? I'm an investigator with the New York State Department of Labor. I just need some information about your employment here.

IRVING [voice-over]. These investigators aren't after the children. They're after the sweat shop owners who hire them, but to enforce the law, they need information from the kids. That's not easy. Most don't speak English. All are scared.

STATE LABOR INVESTIGATOR. She's not allowed to work here. You have to be at least 18 to work in a factory. It would appear by her physical appearance that she's around 10 years old.

IRVING [voice-over]. This young girl came to America just a few months ago from China. She isn't in school because she has to work to support herself and her mother. To get this job, she probably lied about her age. She'll be sent home now, but will be back tomorrow in another sweat shop.

STATE LABOR INVESTIGATOR. She said she just started working here, the girl.

FACTORY OWNER. Not yet. She works part time here.

STATE LABOR INVESTIGATOR. What do you mean "part time"?

IRVING [voice-over]. No one under 18 is permitted by law to work during school hours, but on any given day, investigators find hundreds, even thousands of children hunched over machines, sewing clothes made in America. These young workers are the legacy of a decade of increased competition and greed. In order to compete with the third world to produce clothes fast and cheap, manufacturers often ignore labor laws in their scramble for bigger profits. New immigrants many of them children desperate for work and usually unaware of wage and hour regulations, are a large and easily exploitable workforce.

1ST CHILD WORKER [through interpreter]. I am 14 years old. I work 40 hours a week. I think it would be better to go to school and be someone in the future. I'd prefer to go to school rather than work.

2ND CHILD WORKER [through interpreter]. I work 12 hours Monday to Thursday, and on Friday and Sunday 10 hours. If people think of coming here—well—the truth is it's no bed of roses.

HUGH MCDAID [New York State Department of Labor]. They seem to be employing children in numbers that are amazing to us, and, generally, unprotected children, children who have no other way to survive in the city—alone, without families, illegal immigrants, on the run, pretty much. So they're exploiting the most exploitable. That was a tragedy. My investigators became absolutely appalled. I mean, my investigators are fathers and mothers and educate children and are very concerned about these youth actually living in this industrial society with no way out.

IRVING. [voice-over]. Pull open a door in most of these run-down factory buildings and you'll see almost subhuman conditions—dangerous for adults, unthinkable for children.

STATE LABOR INVESTIGATOR. You've got all that space, a few people.

IRVING [voice-over]. Highly flammable fabrics stacked everywhere, often next to overloaded electrical systems and exposed wires.

STATE LABOR INVESTIGATOR. And the machines are unguarded.

IRVING [voice-over]. Blocked fire exits.

STATE LABOR INVESTIGATOR. If this is your fire exit, this has to be all taken out, all right? You've got to move all of this.

IRVING [voice-over]. The airless, overcrowded rooms reek of solvents, fumes known to be health hazards. At the machines, performing dangerous and mind-numbing tasks, are young children. Every bit of this is in violation of current labor laws. When caught, the manufacturers are fined, but the fine is so small compared to profits that the impact of the recent crackdowns is minimal.

WING LAM [Chinese Staff and Workers Association]. It's an open secret, OK? Labor know—Labor Department know that. Everybody know that. It's open secret. In our community, people are not paying minimum wage. There are a lot of kids working in the factories and, you know, a lot of home work because of the lack of day care. All this is there, but just like I said the government knows that but they are not doing anything.

STATE LABOR INVESTIGATOR. Is their mother here?

1ST ADULT WORKER. Yes.

STATE LABOR INVESTIGATOR. Are you the mother?

IRVING [voice-over]. Many of the really young kids are here because the parents have no place else to take them, but a sweat shop is not a substitute for a playground or a school.

1ST ADULT WORKER. Mother, yeah.

STATE LABOR INVESTIGATOR. You're the mother?

1ST ADULT WORKER. Yes.

2ND ADULT WORKER. I grew up with their mother.

STATE LABOR INVESTIGATOR. Oh. Do they work here?

1ST ADULT WORKER. Uh, today.

STATE LABOR INVESTIGATOR. Ah-ha, they're working here today.

1ST ADULT WORKER. Just today.

STATE LABOR INVESTIGATOR. Just today.

IRVING [voice-over]. It's always a game of catch-up for the investigators. Even when they uncover the abuses, fine the sweat shop owners, send the kids home, within hours, it's business, again, as usual, with many of these children falling through the cracks in the system.

Mr. MCDAID. And the bottom line on exploitation of children in factories or at home or in any other way is greed. Someone is making a buck off those children working in these shops under these conditions.

IRVING [voice-over]. However terrible the conditions, most of these children have very few choices about where they work and what they do. Without proper papers and, sometimes, even, without their families - they need whatever little money they make in the sweat shops to survive, so they learn to lie about their ages to get the jobs. They suffer in silence, hide from cameras and always protect their identity, even when talking to a union organizer.

1ST CHILD WORKER [through interpreter]. I am 14 years old, too young to be working.

UNION ORGANIZER [through interpreter]. Doesn't your boss know you don't have papers?

1ST CHILD WORKER [through interpreter]. My boss knows I don't have papers. That's why he takes advantage of me. I can't tell you my name because if I did, I'd put myself and my family in danger and out of work.

Mr. MCDAID. We cannot permit the person who would exploit that child to benefit by that child's labor and to ignore the problem because well, "the kid needs the money" would ensure its perpetuation and the child's continued exploitation. You don't have to be behind bars to feel sentenced to something. The child who is, quote, "given the sentence" in this industry right now will work here for three or four years" and stay pretty much at this level through life.

IRVING [voice-over]. A better future is unlikely for the child who sits all day at a machine instead of a school desk. Without education, these children are condemned to a cycle of poverty and exploitation.

Mr. WING. It's not that they want the kid to work. They really would like their kid to have a field trip, but sometimes you don't even have enough money for today. The parents say, "I have no future. My future is on you." So that's the kind of thing really hurting our kids.

IRVING. This tag "Made in America" is supposed to assure us that this garment was made with American principles in mind—a decent wage, a safe workplace and without violating laws, especially those that protect our children. Bargains for us as consumers and high profits from manufacturers are all too often made at the expense of our children and this is just too high a price to pay.

Senator METZENBAUM. Our first witness today is Mr. Samuel D. Walker, Acting Assistant Secretary for Employment Standards, United States Department of Labor.

Mr. Walker, we are very happy to have you with us, but before you begin your statement for the Department of Labor, I want to make a statement for the record on the Department's interaction with this Subcommittee.

This morning's hearing is the third time in the last 4 weeks that we have invited the Department of Labor to testify before the Labor Subcommittee. As the record reflects, we are interested in hearing the Department's views on our legislative initiatives, and frankly, in working with the new Secretary of Labor, if that is possible. But if we are to work together, the Department must respect the practices and procedures of the Congress and this Subcommittee.

On three separate occasions, including for this hearing, the Department submitted written testimony at the last minute. You people are well enough aware and have been around Washington long enough to know that that is in direct contradiction of this committee's 24-hour rule. The rule exists not for anybody's special convenience or accommodation, but it makes it possible for members of the committee to review the testimony and prepare relevant questions.

Frankly, there is no excuse for the Department's tardiness. Other witnesses, many from out of town, with little or no staff, are able to meet the committee's deadlines, but invariably the Department of Labor is the last party to submit its testimony. In one case, the Department submitted the same testimony as it had the previous year, and it was still late.

I would hope, Mr. Walker, that you would take the message back to Secretary Martin that if the Department wants to continue its prominent role at our hearings, then we expect the Department to abide by committee rules regarding testimony. I don't hold you personally responsible, but I think it is a message that ought to be delivered to the Department of Labor.

As I previously stated, I am much disturbed, chagrined and saddened by—I have not read your testimony, but my staff advises me that the Department of Labor thinks that we don't need any further action in this area. If that is the thrust of your testimony, I must say I think that is an abomination. Please proceed, so I can hear it actually.

STATEMENT OF SAMUEL D. WALKER, ACTING ASSISTANT SECRETARY FOR EMPLOYMENT STANDARDS, U.S. DEPARTMENT OF LABOR, WASHINGTON, DC; ACCOMPANIED BY BILL EISENBERG, ASSISTANT COMMISSIONER, BUREAU OF LABOR STATISTICS, AND JOHN FRASER, ACTING ADMINISTRATOR, WAGE AND HOUR DIVISION

Mr. WALKER. It is not, Mr. Chairman, and I appreciate the chance to appear today. I should add that I am joined today by Mr. Bill Eisenberg, an Assistant Commissioner at the Bureau of Labor Statistics, who will address any questions about information that may arise, and also John Fraser, who is the Acting Administrator

of the Wage and Hour Division. And I would ask that my written comments be inserted in the record in their entirety.

Senator METZENBAUM. Without objection, they will be.

I think you know we have a 5-minute rule here in the committee.

Mr. WALKER. Yes, I do, Mr. Chairman.

I appreciate your deep interest in the area of child labor. It is an area, I think, where the Department of Labor and the Congress together have made real progress.

I will summarize my written submission, Mr. Chairman, by stressing three points. First I want to tell you about last year's remarkable enforcement program and describe our commitment for this year. Second, I want to talk about a potent new enforcement tool we have, the $10,000 civil money penalty that is now in effect. And third, I want to talk about the need for balance in the law, the need to make sure that we don't unnecessarily padlock the door of opportunity for youth who want lawful work.

On the first point, Mr. Chairman, Labor Secretary Lynn Martin has personally instructed me to carry out an even more effective enforcement strategy than last year's. Let me say it again. I have been told to carry out a more effective enforcement strategy.

We don't think that nothing more is needed; we think that what is needed is the enforcement, even more firmly, of the laws that we have, including the new weapon, the ink on which is not even dry, and which is now in effect a 10-fold increase in civil money penalties.

Last year, Mr. Chairman, the Department carried out its child labor enforcement activities with great vigor. Added to its ongoing program of child labor enforcement, the Department had four child labor strike forces called "Operation Child Watch". These strike forces involved more than 9,500 child labor investigations. The results, Mr. Chairman, suggest that the Department's efforts as well as the wide public attention being given the issue are encouraging compliance.

But there were many hours of work violations; there were less hazardous occupations violations, but one is too many. So we have taken Secretary Martin's direction to heart. I believe we can carry out a more effective enforcement strategy this year.

Importantly, it will incorporate what we learned last year. For example, we have learned that locally-tailored efforts at enforcement coupled with outreach to employers, educators, parents, young people have an impact and that the problem merits someone in each region to think specifically about the matter of child labor enforcement, to coordinate the activities in the region and indeed in the district offices. That has led us to designate such people throughout the country to guide the efforts of our 1,000 investigators year around.

Our plan this year has two main aspects. We have already begun a program of education and outreach to employers regarding increased fines for child labor violations. Each region will thus conduct targeted efforts in this area to outreach to make sure that people know what the rules are so that they can comply with them and know what the penalties are.

Second, Mr. Chairman, each region will conduct targeted, concentrated enforcement activities at strategic times during the year.

These efforts will be tailored to the particular enforcement challenges and opportunities in each region, and we intend for them to be more effective than last year's.

Now I want to talk about the 10-fold increase in our penalty authority. Congress and the administration barely 4 months ago agreed to increase the maximum penalties we can hand out from $1,000 to $10,000. The Department asked for that increase and we got it.

After a transition period, we have had this new tool on the ground for 19 days. Let us use it as a part of our enforcement strategy. We expect this 10-fold increase in maximum penalties to have a major impact on compliance. Let us tell you this time next year if we think more statutory authority is needed. Give this tool a chance to work.

This leads me, Mr. Chairman, to some comments about the bill before us. The ink is barely dry on the $10,000 penalty legislation. We think it is inadvisable to legislate again so soon. Why do I say this? I say it because of our commitment to eliminating unlawful child labor while recognizing that on balance, lawful employment of youth is positive and productive. We worry about changing that balance unnecessarily, acting without first applying our new capabilities. We worry that most employers who want and do their best to comply with the law will, if faced with this bill's requirements, make an easy choice not to hire youth at all. This would be a tragic result especially for at-risk youth who benefit so significantly from lawful, gainful employment.

Let me give some examples. The bill intends to create a better source of information about child labor. We agree with that need, Mr. Chairman, but it can be answered by refining systems that already exist. It is a matter the Department is continuing to address. We think that the bill's burdens and their consequences are thus unnecessary.

The bill's penalty provisions raise the question of whether the Department needs heavier statutory ammunition through new criminal penalties before we have even had time to assess the impact of the new, much higher civil money penalties and their effect on compliance.

Let us use this new tool, Mr. Chairman.

That concludes my remarks, and I will answer your questions, sir.

[The prepared statement of Mr. Walker follows:]

PREPARED STATEMENT OF SAMUEL D. WALKER

Messrs. Chairmen and Members of the Subcommittees:

I appreciate the opportunity to appear before you today to discuss the issue of child labor. The Department of Labor is committed to eliminating unlawful child labor while recognizing that, in balance, the lawful employment of youth is positive and productive. The Department is confident that you share this commitment, although at times we may disagree about how to achieve the necessary balance.

My pure this morning is to comment on Senate bill S. 600, the Child Labor Amendments of 1991. I will do so by describing: (1) important progress made by the Department and Congress last year, including an Administration-backed increase in the maximum allowable civil money penalties (CMPs) for child labor violations from $1,000 to $10,000; (2) the Department's continued commitment to firm and vigorous enforcement of these newly-strengthened laws, as well as education of those expect-

ed to comply with them; and (3) our concern that S. 600 will tip the balance against the lawful employment of youth.

1. PROGRESS LAST YEAR

By a number of objective measures, the Department carried out its child labor enforcement activities last year with great vigor. It did so while proposing tougher regulations; working toward improvements in information collection and intradepartmental coordination (particularly between the Employment Standards Administration (ESA) and the Occupational Safety and Health Administration (OSHA)); and while supporting a major increase in the maximum CMP allowed by law. And finally, it did so with a well-developed sense of the basic problems and challenges of regulating child labor. I will describe each of these in turn:

Child Labor Enforcement Activities

To supplement its ongoing program of child labor enforcement, the Department carried out four concentrated child labor enforcement strike forces, called "Operation Child Watch," in March, June, August and late September 1990. These strike forces involved more than 9,500 investigations targeted directly to child labor compliance. Many business sectors were involved, including retail and service businesses, the garment industry, agriculture, construction, and the amusement and recreation industries.

The strike force investigations uncovered child labor violations in almost 3,900 (about 41 percent) of the firms investigated, involving more than 28,000 illegally employed minors. While the large majority of the illegally employed minors were 14- and 15-year olds employed in violation of existing hours-of-work standards, more than 3,800 minors (about 14 percent) were found employed in violation of the Hazardous Occupations Orders, which set forth certain occupations or activities in which 16- and 17-year olds may not be employed. In addition, more than 1,000 minors younger than 14 years of age were found illegally employed.

Recognizing that education is a crucial part of enforcement, the Department at the same time carried out extensive child labor education and outreach initiatives—targeted to employers, educators, parents and youth—regarding Federal child labor requirements. Our efforts culminated in a major nationwide education/outreach effort in late summer and the first two weeks of September. The Department timed these efforts to coincide with the resumption of school.

A significant proportion of the findings in the Department's overall program of child labor enforcement in FY 1990 was attributable to these strike forces. Overall, the Department conducted almost 42,000 investigations that included review for child labor compliance. In almost 6,000 of these (about 14 percent), 39,790 minors were found illegally employed. This represents an increase of 77 percent over the FY 1989 level of violations. Almost $8.5 million in CMPs were assessed for these violations.

As part of this concerted enforcement activity, ESA's Wage and Hour Division has referred a number of cases to the Solicitor of Labor to bring civil actions for injunctions, or in a few cases, to pursue contempt citations where previously issued injunctions were found to have been violated. Throughout, the Department has sought to employ the full range of remedies available under the Fair Labor Standards Act (FLSA) for violations of its child labor provisions.

Tougher regulations, better information and better coordination

The Department took many of the administrative recommendations of its Child Labor Advisory Committee and converted them into reality. We also adopted three of the Committee's suggestions and converted them into regulatory proposals. Those proposals dealt with Hazardous Occupations Orders No. 2, to remove the exemption for 16- and 17-year old school bus drivers; No. 10, to clarify that meat slicers in restaurants are covered by the order; and No. 12, to broaden the prohibition on minors using paper products machinery.

We also began to examine the way in which we approach the matter of hazardous occupations orders—intending to make clear that, where warranted, we will act to address risks that are not yet considered in these regulations. This has led to a closer working relationship between ESA and OSHA on the subject of exposure to hazardous chemicals.

There has been, at the same time, important progress in efforts to collect better information on child labor and related risks. For example, the Federal Coordinating Council for Science, Engineering and Technology will consider our request for making age distinctions in risk assessments performed by other agencies. Moreover, both OSHA and the Bureau of Labor Statistics (BLS) are now working with ESA,

striving to meet our collective need for better information in this area. These activities have related both to the redesigned occupational safety and health statistics system (ROSH) and newly-developed Census of Fatal Occupational Injury (CFOI) system.

Finally, the Department improved its coordinated enforcement approach through the signing of a Memorandum of Understanding between ESA and OSHA for cross-training of staff and referral of violations.

Support for higher penalties

Even before seeking higher statutory penalties, we administratively established tougher penalties within the framework of then-existing statutory authority by revising the Wage and Hour Division's internal procedures for assessing CMPs.

And, as you know, the Administration supported an upward revision in the maximum child labor CMP from $1,000 to $10,000. This new maximum permits us much greater flexibility in matching the gravity of the penalty to the gravity of the violation. We are now implementing this penalty authority and we anticipate much higher penalties than previously were assessed in cases involving serious injury and death.

A sense of the problem

Of course the Department did not undertake these activities in a vacuum. ESA's Wage and Hour Division, which enforces the child labor provisions of the FLSA, had found a steady increase in child labor violations from FY 1985 to FY 1989. In FY 1989, 22,500 youths were found illegally employed as compared to 9,836 youths found in FY 1985—a 128 percent increase.

The 1985–1989 trend could easily be sensationalized, but we avoided that tendency. Our analysis showed that some of the increase in these violation statistics were the result of increased enforcement and subtle economic and demographic trends. The majority of these violations were hours-worked violations.

As to demographics, the post-war baby boom fueled the growth of our labor force in the 1970s, and the rate of growth has tapered off since then. That trend in some measure has changed course and we now have a slower-growing labor force, a situation which has opened job opportunities for those who traditionally have not had full opportunity to participate in the workforce. The developing situation has also, however, put increased pressure on employers to hire young workers and sometimes to work them beyond the legal limits.

But at the same time we have all become aware of the pressing problems of at-risk youth—and the critical importance that a job can play in their lives. The Department has a number of initiatives and programs that assist youth, particularly economically-disadvantaged youth. Local job training and employment programs funded under the Job Training and Partnership Act offer employability development, remedial education, and occupational skill training. The Job Corps provides these services in a residential setting.

The Department also has a number of new initiatives, including Youth Opportunities Unlimited demonstration grants, to provide services to help youth residing in high poverty areas, comprehensive school-to-work transition services for non-college bound youth and expansion of apprenticeship services. All of these efforts are designed to raise the achievement levels of youth, especially those at risk, helping them link classroom learning with work opportunities and encouraging them to complete their high school educations.

The overall situation calls for a responsible strategy. We must at once address tragic cases of child labor abuse and also the much more frequent (and usually less deleterious) hours-of-work violations. We need to ensure that employers do not, through misplaced fear, deny employment to this nation's youth. The situation, in short, calls for a careful balance.

2. THE DEPARTMENT'S CONTINUED COMMITMENT TO FIRM ENFORCEMENT OF THESE NEWLY-STRENGTHENED LAWS

Just as the Department watched over children last year, with unprecedented enforcement and outreach, we will be watching over them this year. Labor Secretary Lynn Martin has directed ESA to develop and carry out an even more effective enforcement strategy.

Indeed, we have learned several lessons from last year's experiences and have built them into this year's plan. Let me explain how.

We learned from our strike force efforts that the basic characteristics of youth labor vary from region to region, and from industry to industry within the regions.

We have also seen important evidence to suggest that our enforcement efforts have paid dividends in the form of greater compliance.

For example, while each of the strike forces was targeted somewhat differently, the rate of noncompliance—the ratio of firms found in violation to all firms investigated—in the fourth strike force was less than half (at 24 percent) the rate found in the first strike force (at 52 percent). These results suggest that the Department's overall efforts, as well as the wide public attention being given the issue, are encouraging compliance.

But these results have not led us to declare victory or move on to something else. Just the opposite is true. We have learned that locally-tailored efforts at enforcement, coupled with outreach to employers, educators, parents, and young people, have an impact.

And so we have decided to designate child labor coordinators in every region in the country—staff who will concentrate on child labor in that region, planning enforcement and outreach efforts throughout the year. These coordinators will guide the regional efforts of our nearly-1000 investigators in the area of child labor. While all the investigators will continue, in every investigation they undertake, to look for child labor violations, they will carry out directed programs based on the planning and guidance of these child labor coordinators.

In that context, let me outline our principal areas of activity in 1991:

First, we have already begun a program of education and outreach to employers regarding increased lines for child labor violations. The centerpiece of your 1990 bill, raising maximum fines to $10,000, is now law. The Department has issued a regulation putting this higher penalty ceiling into effect.

We are focusing this spring on education and outreach to businesses and others, to get the word out that the new higher penalties will be assessed for wrongful conduct, particularly if it results in serious injury or death. Regional and district offices are responding to a continuing flow of requests for information and speakers, primarily from school systems and parent-teacher organizations.

Each region—in an effort tailored to its needs—will conduct targeted child labor education/outreach programs this spring. These efforts across the country are designed to reach employers of significant numbers of youth, particularly in summer jobs, and do our best to make sure that they understand their obligations under the law.

Second, each region will conduct targeted, concentrated enforcement activities at strategic times during the year. These efforts will be tailored to the particular enforcement challenges and opportunities in each region and are intended to send an unmistakable message that the Department continues to be very serious about enforcement of child labor laws.

We are also continuing work on those initiatives which carried over into 1991. We expect to complete our review of public comments on the changes we proposed to Hazardous Occupations Orders Nos. 2, 10, and 12 in the near future, and to complete any consequent rulemaking by early this summer. Our important efforts at collecting better information and considering, where appropriate, new Hazardous Occupations Orders will continue as well.

But I expect that we will also continue to hear from employers who—in light of the difficulties of complying with some of these provisions, and the increasing cost of noncompliance—will simply decide not to hire minors. For the lawless employer, that is a decision we welcome. For lawful employers—the vast majority—who may be concerned about unintentional violations, high monetary penalties, and burdensome paperwork, that is a decision that gravely troubles us. The prospect of that decision requires us to make thorough use of the legislative tools we already have before asking for new ones; requires avoidance of unnecessary paperwork burdens; and requires a careful balance.

3. COMMENTS ON S. 600

The Department of Labor is committed to eliminating unlawful child labor while recognizing that, on balance, the lawful employment of youth is positive and productive. The Department is confident that you share this commitment.

But while we may share basic and important goals, the Department has serious reservations about the child labor law changes contained in S. 600. On the goal of enforcement, the Administration and Congress have worked together to place a major new tool in our hands—the $10,000 penalty. We have had this new weapon in effect for 18 days. It promises to help us very significantly in achieving compliance. Let us see how it works. If, in our stewardship of the law, we think we need more, we will ask—just as we did last year.

We counsel this approach because of our concern that, in cumulative effect, this bill will substantially change the vital balance I have described. To change that balance unnecessarily, to act without first applying our new capabilities is, in our view, inadvisable.

Indeed, we worry that most employers, who want and do their best to comply with the law will—if faced with this bill's daunting requirements—make an easy choice not to hire minors at all. This would be a tragic consequence for this nation's youth, particularly those at risk.

Let me give a concrete example. When a 16-year old walks in the door of a prospective employer, that employer now sees someone who, while young, may have a lot to add to the business. If this bill passes, we are concerned that such an employer instead will see a paperwork burden—with certificates and reports that may add to existing requirements and create new ones altogether—and will make the easy choice to hire an 18-year old instead.

This is an unnecessary result. The basic, laudable purpose of such provisions in S. 600, to create a better source of information about youth employment and youth injury, can be addressed by refining systems that already exist. It is a matter that the Department is continuing to address. The new burden, and its consequences, are unnecessary.

We also think that the bill will impose a heavy burden on State agencies and school districts. Its certification requirements, for example, would impose burdensome paperwork requirements on both. Obviously, we already ask teachers and local school administrators to be many things to many people.

While we certainly recognize that many States, in their own ways, already choose to certify young workers, this bill would superimpose over their various systems a unitary Federal requirement. At the very least it would raise serious questions about the manner in which existing State certification permit systems will mesh with the bill's proposed scheme and the impact of the additional requirements on States' resources and their own child labor enforcement efforts.

Let me now turn to the penalties provisions in the bill.

In the first instance, the Department believes that the centerpiece of last year's proposed child labor legislation—the $10,000 maximum penalty—will have a positive impact on compliance.

S. 600 raises the question of whether the Department needs heavier statutory ammunition through new criminal penalties, before we even have time to assess the impact of the new, much-higher civil penalties, and their effect on compliance.

Let us assess the effectiveness of this important new tool, Messrs. Chairmen, before there is additional legislation.

Again, this is the appropriate approach because S. 600's provisions likely would have serious, unintended consequences. The proposed criminal penalties are radically higher than those now in place. A predictable result will be a basic change in the attitude of employers we investigate. Employers who might otherwise be inclined to cooperate in our investigations, through the production of documents and access to young employees to be interviewed about their employment, may very well decline to cooperate in light of the radically higher penalties to which they might be exposed.

This could result in delays in identifying, and remedying, serious occupational hazards, and the basic process of fines and assessments would be seriously impeded. And instead (to extend my example) of the 16-year old potential worker walking in the door, an employer may well see not only a paperwork burden but also a unique possibility of serious criminal liability which, no matter how remote, could also counsel hiring the 18-year old instead.

Does this mean that we want to "go soft on" people who set about to injure kids? Of course not. That is not our record, nor will it be. The issue is simply whether a provision with bad side effects is warranted when the law enforcers have just been given another potent capability with which to fight the basic problem. We think that the answer is no.

4. CONCLUSION

To be sure, we are all committed to eliminating illegal child labor and ensuring legitimate and meaningful employment opportunities for our Nation's youth. Our young people certainly deserve this from us. But we do not believe enactment of legislation such as S. 600 is the way to achieve these goals. The appropriate approach, in our view, is to permit the Department to continue the many efforts it has underway. These efforts have had a positive impact on deterring illegal child labor employment. We think that, combined with the recently-enacted increase in the

maximum CMP amount, these efforts will move us toward the goal of compliance without eliminating safe, lawful employment opportunities.

This concludes my prepared statement. I will be glad to respond to any questions you may have.

Senator METZENBAUM. Thank you, Mr. Walker.

Mr. Walker, you state in your statement that "if in our stewardship of the law we think we need more, we will ask, just as we did last year."

Let me correct the facts. The facts are that we had an increase in civil penalties in our bill for a number of months, and when the Department of Labor was asked for comment, the Department of Labor had no comment. They did not propose it nor did they support it. It was only at the last moment, way further on down the road, that they came around and indicated support.

The increase in civil penalties was in the bill that Senator Dodd and I put in May 1990 S. 2548; the Department didn't support it at our hearing. Three months later, the Secretary supported it at a hearing in the House. So we are pleased that eventually the Department of Labor did come around and support it, but it was not an administration proposal. I think if you check, you'll find the facts will bear that out completely.

Mr. WALKER. Mr. Chairman, obviously I appreciate that comment. I think in fact that Secretary Dole testified in support of an increase from $1,000 to $10,000 in civil money penalties in June. Mr. Brooks, then Assistant Secretary Brooks, testified before you in May and I think made roughly the same point, that if in our stewardship we think we need more, we'll ask. And I think that has been our record. I think Secretary Dole did ask, and we will continue to ask if in our stewardship we think we need it. But we think we need to use a very significant new piece of legislation, a 10-fold increase in civil money penalties, and see what the impact of that is. I think it will affect compliance.

Senator METZENBAUM. Let me ask you this, Mr. Walker. If you were running a plant, and you were doing pretty well, making pretty good money, and you knew that there might be a $10,000 fine which you might be able to run through and even deduct it if the Government didn't pay too close attention in auditing your books, although it probably technically would not be deductible. But you thought that's the worst that could happen to you, and it wasn't that much money in the overall scheme of things because your company is doing a number of millions of dollars of business. Or suppose you knew that you might possibly be personally incarcerated in a penitentiary for violating the child labor laws Now which scenario would have the greater impact on you?

Mr. WALKER. I think if I knew that the Department of Labor was committed yet again to a more effective enforcement program, I think if I knew that as is the case, penalties are 10 times higher, I think if I knew that the solicitor of labor has literally doubled efforts in seeking injunctions, as was our record last year against child labor violators, that those would indeed have an impact on compliance, would affect the way I'd make that decision.

The availability of the criminal remedy certainly is a deterrent. I think what we express in our testimony is that it is also a deterrent to the employment lawfully of kids.

Senator METZENBAUM. Tell me how that works. You said that before, and I don't quite understand how that is a deterrent. You know what the law is. You know how old a kid has to be. Why would it be a deterrent to the employment of kids?

Mr. WALKER. Well, I appreciate the question. The reason we think that is that employers obviously now face a decision when someone walks in the door. They look at that person, it may be someone who has something to add to the business. If it is a 16 or a 17 year-old, for example, under this bill's provisions—and obviously you have asked us to comment on all of those provisions, and we have done so—under the totality of those provisions indeed there are burdens in terms of information, and there is the prospect no matter how minimal, how remote, for a lawful employer to worry about the possibility of being hailed into court for a charge that may carry 10 or 20 years.

Certainly if we need that, if in our judgment we need that, we will ask for it. But what we have now is a very potent tool which, although not criminal, is a 10-fold increase in civil money penalties. That is what we mean when we say that we look both at the deterrence of violations, which obviously we both want to effect, but on the other hand—and this is a multifaceted problem—the deterrence of lawful employment for the at-risk kid, the at-risk 16 and 17 year-old in the inner city, who already faces to employment, may be something that is tragically unnecessary, and that is thus what we mean when we talk about those two items, if you will, side-by-side.

Senator METZENBAUM. Your Department now takes the position that because Congress increased the penalties for child labor law violations 10-fold, there is no current need for any further child labor legislation. I am astonished by that because we have State labor officials, school administrators, and the American Association of Pediatrics all calling on Congress to improve child labor laws. Yet the Department has adopted a wait-and-see approach.

This is a Department of a President who talks about a "kinder, gentler Nation". Certainly, "kinder and gentler" we hope would include children.

You are correct that Congress has now provided the Department stronger civil penalties to go after violations. But these penalties were intended only as a first step, not the end of this process.

Given the broad range of support for improving criminal enforcement for protecting migrant children and for requiring educational efforts, are you really actually saying, Mr. Walker, that nothing needs to be done and that everything is going to be fine to eliminate the child labor problem in this country?

Mr. WALKER. Senator, it is a serious problem. And I should say that if I said to Labor Secretary Lynn Martin, "Madam Secretary, I think we should wait and see", I'd be fired. That's not what I have said this morning. We are undertaking an enforcement activity which will be more potent than last year's, and part of our strategy is to incorporate this important new statutory tool that we now have available to us.

So I differ with the characterization of "wait and see"; I think nothing could be farther in fact from the truth.

Senator METZENBAUM. Well, let's face it—last year, Secretary Dole called for increased criminal authority to enforce our child labor laws. Specifically, she asked Congress to enact legislation allowing first-time willful violators to be punished criminally. Does your testimony today calling for no new legislation mean that the Department is now repudiating Secretary Dole's proposal?

Mr. WALKER. Absolutely not, Mr. Chairman. We have been asked to comment on the bill in its totality. As you have said, one part of the bill that we are here to discuss this morning, one provision has to do with eliminating the first-time conviction requirement. There are many others, and as I have tried to make clear I think particularly in the written testimony, we view this as a totality proposition. That item standing alone continues to be of serious interest to us and possibly to have merit.

Two things, however, have changed, it seems to me, since that was discussed by Secretary Dole in June 1990. The first is that we have continued to conduct child labor strike forces, and we have evidence, that is, the data from those strike forces suggests that in fact we are starting to bring about compliance. That is point number one.

Point number two is that the legislative field has since been played on; that is, the $10,000 penalty has been passed. We are here this morning to comment on the bill as a whole, and that has been the thrust of our testimony. So obviously no, we have not repudiated it. Some things have changed since that was said, but standing alone it continues to have some merit.

Senator METZENBAUM. Well, I'm sure one of the lessons the Department has learned from Operation Child Watch was that the American public is terribly ignorant about even the most basic child labor laws. You refer in your testimony to a major nationwide education outreach effort undertaken last summer. I wonder if you could give us some specifics about that effort. How many schools were actually reached? How many employers were actually reached? And we would like you to provide copies of the materials that were used. But tell us about how many schools and how many employers were actually reached.

Mr. WALKER. Mr. Chairman, I would be pleased to do that, and in fact I am going to let John Fraser address the specifics. But before I do, let me make a point having to do with the television show that we have seen this morning.

We can't undertake the education effort alone, although obviously we think we have principal responsibility in that area and work with the States to carry that out. Private efforts such as that of the Lifetime television show are very important, too. That's why I sent a letter to all of the stations considering showing that program, encouraging them to do so, not because it put the Department in an especially grand light—I don't think it did—but because it informed people of the basic problem. That is our commitment indeed, and I think we share that, Mr. Chairman, to get the word out that the hours of work standards are there, they are to be complied with, that the hazardous occupation order standards are there, that they are to be complied with, that they are being enforced, that penalties are being handed out. So that indeed is a critical part.

In fact, as a law enforcement person, I think it is hand-in-hand with enforcement; it is a part of enforcement to educate people.

Having said that, your specific question, Mr. Chairman, had to do with our activities, and I'll let acting administrator Fraser address those.

Mr. FRASER. Mr. Chairman, I can get you some specific numbers for that. I can tell you that the education efforts were targeted to educators, to school systems, to parents, kids, employers. I know that tens of thousands of contacts were made across the country. I know in the Boston region alone, for example, that nearly 4,000 informational packages were sent out to school systems and to individual school districts. But we can get you some details on the exact numbers nationwide and submit that for the record. But there were literally tens of thousands of contacts that occurred all across the country, sir.

Senator METZENBAUM. Do you have any requirement that employers post in their shops notice that children under a specific age may not be employed? Wage and Hour Division—I remember seeing those signs, and I don't know whether you still have them, what the wage and hour law provides. What about child labor laws on bulletin boards in the shops?

Mr. WALKER. We'll submit for the record the Fair Labor Standards Act poster which is required to be posted in all covered workplaces. It does reference the child labor laws. And I will have to supplement for the record precisely what it says, Mr. Chairman.

Senator METZENBAUM. You don't have any requirement for a big sign saying if you are under 16, you are violating the law if you are working here; do you think that would help?

Mr. WALKER. Well, again, the requirement is to post a sign, which among other things talks about the child labor laws, and I think that that has helped, although obviously what is required is a punctuation to that statement, and that's what we've tried to carry out through our education and information campaigns, if you will, that have gone along with our strike force activities.

Senator METZENBAUM. You are telling me about these signs, and you've got a lot of words and a lot of gobbledegook about what the Federal Fair Labor Standards Act provides—and you know no kid can understand that. A kid could understand, even the child who could not read English too well, a boldfaced sign saying specifically who may not work in that shop, what the age limit is.

Why not do it?

Mr. WALKER. Well, let me answer the question this way. I think a kid can well understand a pamphlet that we put out in September 1990 that we will supply for the record which puts out in very plain English and which we are trying to as widely distribute as we can what the rules are.

Senator METZENBAUM. How does the kid get it? How does the Puerto Rican kid or the Vietnamese child or the child from one of the South American countries get that pamphlet?

Mr. WALKER. Well, Mr. Chairman, let me now address that part of your question as to a requirement for posting in the workplace. I would say on that that there are already a lot of posters required to be put up in the workplace, and I think it has to be a concern that the message of all of them becomes devalued as we continue to

add poster after poster after poster. What I want is an effective communication, and I know, Mr. Chairman, obviously that is what you want as well.

Our judgment about how to carry that out is through the sorts of activities that we have been undertaking and our commitment to continue carrying them out this year.

Mr. FRASER. Mr. Chairman, if I may add briefly to that, one of the difficulties in providing that kind of information that applies everywhere is that State laws affecting child labor vary from Federal law, sometimes more restrictive, sometimes less so, sometimes different coverage of employers.

One of the things we have been trying to do in our education and outreach effort is to develop jointly with the States informational materials that include the stricter of the State or Federal standards, so in one place, employers and young people and parents and educators have a description of what the specific legal environment is in that State under both State and Federal law.

So one of the things we have been trying to do is get at your concern by making sure that there is that information through joint Federal and State efforts.

Senator METZENBAUM. There must be something wrong if all the child groups, the school administrators, the State officials all want tougher laws, and only the Department of Labor—that Department of Labor that is under the President who talked about a "kinder, gentler Nation"—only you are opposing it. And you talk about all you are doing—the GAO in 1990 indicated that you had the equivalent of 40 full-time compliance officers enforcing child labor laws nationwide. Now, I don't have to tell you that 40 are not going to accomplish a whole lot and have much done.

What have you done about increasing the number of compliance officers responsible for investigating child labor violations?

Mr. WALKER. Mr. Chairman, your question had several parts, and I will take each in part.

Senator METZENBAUM. OK.

Mr. WALKER. As to the number of 40 employees that I see from time to time, in fact every one of our investigators in every investigation she or he undertakes looks for child labor violations.

Senator METZENBAUM. The GAO said equivalent to 40.

Mr. WALKER. Yes. Even under that calculation, which I dispute because I think it happens to have a pretty substantial under-reporting to it for reasons that are quite technical and I can supply for the record, even under that calculation in the last fiscal year the number was more like 100 FTE out of our force of 1,000.

What I have described to you this morning additionally is the idea of a child labor coordinator, which I think really consolidates as a management matter the achievements that we have made in the last year. It is someone to consider and particularly think about where the investigators ought to be going, because I think what is really needed here is directed investigation rather than complaint-driven, and also, where those publicity efforts that we have been jointly talking about ought to take place. So in fact I think that is a very substantial improvement.

You asked why the Department is here in light of some of the other witnesses who will come today. You have asked us, I know,

for our best professional judgment about this bill and its need right now. The Department has several responsibilities here because it is a multifaceted problem. There is the responsibility of enforcement, which I personally will carry out firmly and fairly. There is also the responsibility to see that lawful employment is available, especially for the at-risk youth that we worry about so much, especially for summer jobs for kids. We all have the sense of this problem, I think, that there is something good about youth working—we just want to get at what is bad. That is what we are trying to do here. We think we have been given an important new weapon to do it, and we just question the need right now for more, when as I said, the ink is not even dry on a 10-fold increase in the penalties.

Senator METZENBAUM. I ought to point out to you that one of the reasons that you have a 10-fold increase in civil penalties and not in criminal penalties is because we are talking about committees with different jurisdictions. The civil penalties increase came about as a part of the budget process. That was not a place where you could change the criminal penalties. Had we had the jurisdiction to do so, probably many of us would have tried very hard to achieve that objective.

Your Department says, well, we've got the 10-fold increase—and let me point out to you that the 10-fold increase is still peanuts. Ten thousand dollars is not that much of a fine for any employer of any consequence. It just isn't that much money, whether it is tax-deductible or not. It is just a small item in the overall scheme of things for most corporations doing business today.

So although I was a party to getting the 10-fold increase, I am frank to say to you that the 10-fold increase ought to be increased another 10-fold times. When you get into the six-figure amounts, then you are really talking about significant penalties.

Let me ask you, Mr. Walker, my last question. Did the Department of Labor ask for more money for child labor enforcement in the fiscal 1992 budget or for more money for FLSA in general, or for more money for educational purposes with respect to the law?

Mr. WALKER. I'm going to address the specific budget question to acting administrator Fraser because that is particularly his domain. Let me address, however, one of the observations you made about the impact of penalties and possibly yet again of a 10-fold increase.

We have to judge this matter by the compliance that we effect with the penalties that we have and in particular had last year. Let me be more specific. Last year, before Congress acted in this field at all, we changed our own internal procedures so as virtually to double the penalties that we could hand out under the old $1,000 statutory authority. We made that part of our strike forces. There is evidence to suggest that compliance was being effected in that way.

I think it is very logical for us to think that a 10-fold increase particularly targeted, I should say, to serious injury and death, which I know is this committee's very serious concern and mine, that that will indeed affect compliance; that it is not, to use your term, "peanuts" when it is per-child, and thus, as I have said before, we think we ought to use that important new tool.

Let me turn to acting administrator Fraser to address the budget matter, understanding that we were of course operating under a budget agreement.

Mr. FRASER. And that is the answer, Mr. Chairman. In the context of the overall budget agreement for 1992 between the Congress and the administration, we did not ask for additional resources in this area.

Senator METZENBAUM. Thank you very much, gentlemen. We appreciate your being with us this morning.

Mr. WALKER. Thank you, Mr. Chairman. I appreciate the opportunity.

Senator METZENBAUM. I think you might take the message back to the Secretary that we look forward to working with her and that we were supportive of her confirmation. But in this first go-around we are a little disappointed—no, rather—we are much disappointed. We hope that we can see better evidence of cooperation with respect to moving together on legislative proposals.

Mr. WALKER. Thank you, Mr. Chairman.

Senator METZENBAUM. Our next panel consists of Mr. Matthew Garvey, 17 years of age, accompanied by his mother, Valerie Tyra, of Laurel, MD; Mr. Fernando Cuevas, Jr., age 19, of Winter Garden, FL; Dr. Adolfo Correa, Assistant Professor of Occupational Epidemiology, Johns Hopkins School of Hygiene and Public Health, Baltimore, MD, on behalf of the American Academy of Pediatrics; Dr. David Renfro, Commissioner of Labor, Oklahoma City; and Dr. Jack R. Anderson, Superintendent of Schools, East Ramapo School District, Spring Valley, NY, on behalf of the American Association of School Administrators.

We are very happy to have all of you with us. I think you know we have a 5-minute time limit; the yellow light will go on when there is 1 minute left.

Our first panelist is Mr. Matthew Garvey. Please proceed.

STATEMENTS OF MATTHEW GARVEY, LAUREL, MD; ACCOMPANIED BY MOTHER, VALERIE TYRA; FERNANDO CUEVAS, JR., WINTER GARDEN, FL; DR. ADOLFO CORREA, ASSISTANT PROFESSOR OF OCCUPATIONAL EPIDEMIOLOGY, JOHNS HOPKINS SCHOOL OF HYGIENE AND PUBLIC HEALTH, BALTIMORE, MD, ON BEHALF OF AMERICAN ACADEMY OF PEDIATRICS; DAVID RENFRO, COMMISSIONER OF LABOR, OKLAHOMA CITY, OK, AND JACK R. ANDERSON, SUPERINTENDENT OF SCHOOLS, EAST RAMAPO SCHOOL DISTRICT, SPRING VALLEY, NY, ON BEHALF OF AMERICAN ASSOCIATION OF SCHOOL ADMINISTRATORS

Mr. GARVEY. My name is Matthew Garvey. I am 17 years old, and I want to thank you for having this hearing this morning. I am here with my mother, Valerie Tyra.

I was working when I was 13 years old at the Laurel car wash, and I lost my leg in a towel dryer, due to defective machinery.

It was sunny and real hot outside, and I was sitting on top of the dryer, and there was no top on it. This boy was burning the hairs on my leg, and I lifted my leg up and I got sucked into the dryer. It spun me around and spit me out of the machine. I remember lying

on the street and looking up, and my leg wasn't there; it was in the dryer.

I went to get up to try to do something, but some guy came over and put me back down on the ground. My mother came up there and saw me on the ground, and she just lost it. I kept telling her I was going to be OK, trying to make her calm down and everything.

I don't know—with what I've heard this morning about $10,000 fines and so on, and how you were saying they should double it, or make it more or whatever—I think there is really no kind of fine that could do anything for the loss of my leg. Personally, myself, I think that they should be put in some kind of prison facility. If someone cuts off someone's leg, they go to jail; and if they have defective machinery or they have kids working machinery that they shouldn't be operating, and they get hurt with that kind of machinery—and they should know what the machinery is capable of doing; if they don't know what the machinery is capable of doing, they shouldn't be running the shop anyway. So personally, myself, I think there should be some sort of jail time for it, because there is no fine that would make me feel any better—anything that would make me feel any better.

It happened 4 years ago, and it was on the news and everything, but then everything just quieted down about it, and now everything is being brought back up again—but me, I live with it every day. And I am one out of millions of cases. I am one. And they are talking about fining somebody $10,000 for letting somebody operating a machine they shouldn't have been operating.

[The prepared statement of Mr. Garvey follows:]

PREPARED STATEMENT OF MATTHEW GARVEY

Good morning. My name is Matthew Garvey. I am seventeen years old and a senior in high school. I am here today with my mother, Valerie Tyra. We thank you for holding this hearing. I hope that by telling my story, I can help prevent serious injuries for other teenagers who are working.

During the summer of 1987, when I was 13 years old I had a weekend job at the Quality Car Wash in Laurel, MD. My job was to towel dry the cars after they left the car wash. This was my first job, except for delivering papers.

When I applied for the job, they asked how old I was. I told them I was thirteen. No one said I was too young—even though now I know it was illegal for them to hire a thirteen year-old. They didn't ask me for a work permit.

On my first day at work the man I was working with showed me how to take the wet towels and put them in the dryer. It was not a dryer like the ones in homes but a big machine that sucked the water from the towels.

It was a hot day so I went and sat on the dryer to get the cool breeze that came out. While I was sitting there another boy that worked was using his cigarette lighter to burn the hair on my legs. I pulled my leg back and it was sucked into the dryer. It was spinning me around and I remember trying to push myself out of the machine. Then I was thrown from the machine and landed in the driveway outside of the car wash. I tried to get up but couldn't. I looked up and saw that my leg was gone. I was lying on the ground and could hear my leg thumping around in the machine. I was telling people to call 911, because everyone there was just running around.

I heard my mom crying when she was walking to where I was. I told her I would be okay, but I really thought this is it. I'm dead.

I didn't want my Mom to see me like that. I thought it would be the end of her. She talked a lot about her heart and I didn't know what would happen to her seeing me like that.

The machine that took my leg was working without the top. The safety-lid was broken off. The machine was not supposed to run if the top was open, but when the top broke off someone rigged the machine to run without the top. After I lost my leg the car wash was fined $400 for the towel dryer being defective.

I'm here today because injuries like mine can be prevented. They can be prevented by not allowing employers to hire thirteen-year-olds for such dangerous jobs. They can be prevented with safe equipment. Everyone needs to know more about what the law is—especially teenagers so they know they can refuse to do something that's illegal at their age. I didn't know it was illegal for me to be working at the car wash. My mom didn't know either. We thought the car wash company would know the law and follow it. People at my school are much more aware now, but only because they know what happened to me. I think we need more media attention to this problem, because that's where everyone gets their information. I hope today's hearing will help to make everyone more aware.

Senator METZENBAUM. Mr. Garvey, do you know whether the company was fined or anything?

Mr. GARVEY. They were fined $400 for the machine. The child labor people, I don't know where they were or what they were doing that summer that I was working, but they weren't anywhere around in my town.

Senator METZENBAUM. How old were you at the time?

Mr. GARVEY. Thirteen.

Senator METZENBAUM. Were there other 13 year-olds employed at that time?

Mr. GARVEY. There was a 10 year-old kid working there, doing the same thing I was doing.

Senator METZENBAUM. Where did this accident occur?

Mr. GARVEY. Quality Car Wash.

Senator METZENBAUM. In Laurel, MD?

Mr. GARVEY. Yes.

Senator METZENBAUM. Ms. Tyra, do you care to add anything?

Ms. TYRA. Yes, I do. I want to thank you for the opportunity for Matthew and I to be here today.

I'm not going to go into the pain and the suffering that the family felt. I have tried to describe that to people before, and there just aren't any words to let you know how painful this was for the whole family.

I do want to see the legislation go through. I want to see stiffer fines, six-figure fines. Ten thousand dollars is nothing to a big businessman.

As far as the Department of Labor educating people, I've gotten no information—since they say they have been educating people, I haven't received anything from them.

Suzanne Butros of People Against Dangerous Delivery and I have been discussing producing our own documentary. We would like to see it shown in schools around the country. We are going to ask Pat Mitchell to produce it, the woman who produced part of the documentary that you saw this morning, because we need immediate action.

While all of this is slowly grinding through the government process, and the Department of Labor is saying "Give us a year to see if this works," we still have kids being exploited every, single day and put in dangerous situations.

So I immediately want to go to the heart of the matter, and I would like to have money from business and from the Department of Labor to fund our documentary. I think having teenagers in this documentary, going to teenagers, telling them, "It's okay, tell your employer no." Educate them. Educate the parents. God knows, I

wish I had been a little more educated. I wish Matthew had. Excuse me. Thank you.

Senator METZENBAUM. Thank you.

What are you doing now, Matthew? Are you in school now?

Mr. GARVEY. Yes, I'm a junior in school.

If you fine somebody, yes, that's money out of their pocket, but that's not something that's going to stay up there. For me, a fine, even sending them to jail wouldn't make me feel any better, but I think that clicks in someone's head better, that, "I don't want to go to jail. I'll pay a fine. I've got that money to spare. I'll make more money with this defective equipment, with these young people working."

Senator METZENBAUM. Thank you very much. Your testimony is very telling, and we appreciate both yours and your mother's testimony. It is very, very significant.

Now we'll hear from Mr. Fernando Cuevas, Jr., age 19, of Winter Garden, FL.

Mr. CUEVAS. My name is Fernando Cuevas, Jr. I was born in Fostoria, OH because of my parents migration from our home in Winter Garden, FL to Ohio.

I come from a large family. I have eight sisters and one brother. As far back as I can remember when I was a lot younger, I can remember my older sister taking care of us in cars out in the fields, and when she was not taking care of us in the fields, we were playing a game to us, taking hampers to our parents while they were picking pickles and tomatoes. It was a game to us. Then, when we migrated to Florida, we would be in the citrus fields, in the car again, if not, under a tree, while my parents and my older sisters were dropping the oranges. And then we'd play a game again, trying to keep up with them, picking up the fruit.

Like I said, when I was younger it was all a game to me. But as I started getting older it became a job, and at the age of about 7 and 8, I was competing with my parents and my older sisters. I was making almost the same amount as they were in quantity, but getting paid in piece rate.

That was basically my childhood, for myself and my sisters, until about 1983 when I was 12 years old. At that time I could work about the same as an adult. I was practically keeping up with my parents. My father was 40 and for the first time realized why it was that it took the whole family to work in the fields to make ends meet at the end of the week because we were getting paid so little.

We became involved with the Farm Labor Organizing Committee, and we were made aware of the injustice that exists among migrant farmworkers—the injustice of unfair wages paid to migrant farmworkers, the low pay on piece rate, the poor working conditions, and the poor housing that they provide for us.

All of this does lead to child labor because like I said, they don't get paid enough, and it takes all of us to make ends meet so we can make enough to live for the week, for food and so forth.

In recent years, my mother and my father have made a commitment to stay involved with the Farm Labor Organizing Committee to try and improve things for their children, which is myself and my sisters, but also to try and improve it for the rest of the mi-

grant farmworkers out in the fields, who are still suffering with their children working out in the fields.

As my father always told me, and as I can see, there is a long road ahead of us, but the good thing is we are starting something, and it is beginning.

As I give clear testimony for myself, I was able to get out of the field permanently at the age of 15 to try and get a decent education. I also became an organizer for the Farm Labor Organizing Committee at the age of 16, and I continue to see many, many young children working out in the fields at the same age that I was—4, 5, 6, 7 and 8 years old. They are still working out in the fields. I see it every year, up in Ohio, I see it down in Texas, I see it in Florida; I see it anywhere that we go and organize.

Just last season I was involved in putting together a tour for Assistant Secretary of Labor William Brooks. He was able to see and take pictures of a lot of those children working out in the fields.

It goes on all the time, the children working alongside their parents, working and getting cheated and robbed of their childhood, being adults at the age of 8, 10, 12 years old. They are worried about working hard to make enough money to help their parents out so they can have food for the week and making sure they get a good night's sleep so they can get up early the next morning, around five or six—but it is not to go to school; it is to be out in the fields again, working.

There are many laws that are supposed to be enforcing child labor laws, but as far as I am concerned, it is just a piece of paper, because I have never seen it enforced as far as I have been working out in the fields and as far as I have been involved with the Farm Labor Organizing Committee.

We need to create laws to protect migrant farmworkers working out in the fields. We also need to create better enforcement for children to make sure it is getting enforced and stop the child labor that is out in the fields. We also need to create ways to recognize adult workers as working people and pay them enough of a wage so they can earn enough to feed, cloth and educate their children without having to depend on what their children earn to make ends meet.

What I am saying is that the system needs to be changed. I hope I can be of some help in making changes in a system that is continuing to send children out in the fields. I tell you as an organizer who now sees as an adult those children working out in the fields like I have worked out in the fields myself until the age of 15.

The only good beginning that I have seen so far is with the Farm Labor Organizing Committee in the contracts that we have with Heinz, Vlasic and Campbell's Soup. Our contracts specify that the children cannot be out in the field unless they are 14 years or older while the harvest is going on; when school starts, they cannot even be out in the field at all unless they are 16 and have a working permit.

Those are the kinds of changes that we need to see in the overall system of the migrant farmworkers in this country. We need to change the laws and the conditions so the children do not have to work out in the fields and can have a normal childhood like any other child.

It is also very dangerous, if I could make one more point. I have one sister who has minor defects—it is also on this videotape, which they did not finish showing to you—on account of the pesticides that they use in the fields.

Thank you.

[The prepared statement of Mr. Cuevas follows:]

PREPARED STATEMENT OF FERNANDO CUEVAS, JR.

My name is Fernando Cuevas, Jr. I was born in Fostoria, Ohio because of my parents migration from our home base in Winter Barden, Fla. to Ohio.

I come from a large family. I have eight sisters and one brother. As far back as I can remember when my older sister was not taking care of us in the car we were playing a game of taking hampers to our parents and older sisters in the groves. When we migrated to Florida and my parents were working in the citrus groves, my older sister would be taking care of us in the car or under a tree while our parents would be dropping the oranges from the tree. Then we would play the game seeing if we could keep up with my parents and our older sisters.

Like I said, as far as I can remember it seemed like a game but as I started growing up it became a job. Myself and my sisters became very good workers. At the age of seven and eight I was competing with my older sisters and my parents and making almost as much as them in quantity but getting paid in piece rate.

That was my childhood life, for myself and my older sisters, until 1983 when I was 12 years old and I could work the same as any adult. My father at the age of 40, for the first time, figured out why it took the whole family unit to make ends meet at the end of the leek.

We became involved with the Farm Labor Organizing Committee. This made us aware of the injustices that exist for migrant farmworkers.

First of all the injustice of unfair wages that are paid to migrant farmworkers as they migrate; the low pay on piece rate; the bad working conditions, the poor housing. All this leads to child labor and the parents dependency on the children working to make ends meet.

In recent years my mother and my father have made a commitment to be involved with The Farm Labor Organizing Committee in order to help change the system, not just for their children which is myself and my sisters but, change it for farmworkers in general.

As my father says now and as I can see, there is a long road ahead of us but at least we are beginning a change.

As I give clear testimony now, for myself, I was able to get out of the field permanently at the age of fifteen to get a decent education. I also became an organizer for the Farm Labor Organizing Committee at the age of 16 and I continue to see many, many young children working out in the fields weather. When I am in the midwest, Texas, or Florida, I see children at the same age I was (at 4, 5, 6, 7 and 8 years old) still working out in the field.

Just last season I was involved in putting together a tour for Assistant Secretary of Labor, William Brooks. He was able to see and take pictures of alot of those children working out in the field.

It goes on all the time, the children alongside their parents working and getting cheated and robbed of their childhood, being adults at the age of 8, 10 or 12 years old. It is tragic how hard they have to work and how they make sure they get a good nights sleep because they have to get up at 5 or 6 in the morning, not to go to school but to go to work. And yes there are some laws in this country that say there should not be child labor out in the field, but as far as I am concerned it is just a piece of paper if there is no enforcement.

We need to create better laws to protect migrant farmworkers working out in the fields. We also need to create better enforcement to make sure we enforce those laws that we are passing to stop child labor out in the fields.

Also we need to create a way to recognize the adult workers as working people and pay them enough of a wage so they can earn enough to feed, clothe and educate their children without having to depend on what their children earn to make ends meet.

What I am saying is that the system must change. I hope I can be of some help in making changes in a system that is continuing to send children out in the field. I tell you as an organizer, that now sees as an adult, those children working out in the fields like I have worked out in the field myself until the age of 15.

The only good beginning that I have seen, so far, is with The Farm Labor Organizing Committee in the contracts that we have with Heinz, Vlasic and Campbell's soup. Our contracts specify that the children cannot be out in the field unless they are 14 years old or older while the harvest is going on. When school starts they cannot even be out in the field at all unless they are 16 and have a working permit.

Now those are the kind of changes we need to see in the overall system of the migrant farmworkers in this country.

We need to change the law and the conditions so the children do not have to work out in the fields and can have a normal childhood like any other child.

Thank you very much for giving me this opportunity to give this testimony.

Senator METZENBAUM. Mr. Cuevas, do you think there is any justification for having kids 8, 9, 10, 11, 12 working in the fields?

Mr. CUEVAS. It is a robbery of their childhood. I always dreamed of playing baseball and doing other things that I saw all the rest of the children doing. There is really no justification for it. They have the hopes and dreams and desires of other children, but they cannot do it because they are out there working to make ends meet with their families.

Senator METZENBAUM. Do you think that Heinz and Vlasic and Campbell's Soup have been any less economically successful by reason of their being able to come to some agreement on child labor with the Farmworkers Organizing Committee?

Mr. CUEVAS. In the contracts we have increased the pay for the migrant workers to where they are not having to depend on their children as much or at all to be working out in the fields. So where we have our contracts, in the farms that we have our contracts, you do not see child labor out there.

Senator METZENBAUM. Let me ask you this question. This is a picture of two kids under the back of a truck. Here is a picture of two kids—I don't know how old that little girl is; she doesn't look more than 7 or 8, and the other one, too—working out in the fields. There is some equipment that could be harmful. Here is a little boy or girl who looks about 12 or 13; he looks like he is about 8 or 9.

Is that sort of typical of what you find?

Mr. CUEVAS. That's kind of what you find, practically every day out in the fields. That middle picture is a pesticide machine, and just like I was saying, it was pesticides that caused my sister to have minor defects on her body. And there are a lot of other cases like that.

And those children under the truck—when the parents are working, they don't pay attention to where their children are; they just hop in their vehicles and take off. There have been incidents when they have been run over by their own parents. It is common that you see that every day out there.

Senator METZENBAUM. Thank you very much, Mr. Cuevas.

Our next witness is Dr. Adolfo Correa, assistant professor of occupational epidemiology at Johns Hopkins.

Mr. Correa, welcome.

Dr. CORREA. Good morning, Mr. Chairman.

My name is Dr. Adolfo Correa. I am a pediatrician and an occupational epidemiologist. I am an assistant professor of pediatrics and occupational and environmental epidemiology at the Johns Hopkins Medical Institutions. I have had extensive experience in child health, public health and epidemiology. Over the past 4 years I have worked in the assessment of occupational and environmen-

tal health hazards, in particular those affecting children and women of reproductive age.

I am here today on behalf of the American Academy of Pediatrics, an organization of 40,000 member pediatricians dedicated to promoting the health of infants, children and adolescents.

The Academy wishes to express its appreciation to you, Mr. Chairman, and to the subcommittee for holding this hearing on S. 600, the Child Labor Amendments of 1991. I will limit my remarks to the sections of this legislation that deal with child labor in agriculture.

Agriculture is unlike other occupations in that children make up a significant part of the work force. Many of these children are employed by their parents; many more accompany them and work alongside them as seasonal laborers.

A systematic risk assessment of agricultural workers in the United States has not been done, so it is difficult to know at this time the full scope and magnitude of adverse health effects from agricultural work. Despite the lack of adequate mortality and morbidity surveillance systems, several physical and chemical hazards have been identified in the agricultural work force.

Agriculture is regarded as one of the most dangerous occupations in the United States today. Agricultural workers are among the industrial groups with the highest fatality rates from occupational injuries. The agricultural work force has similar hazards for children and adults. For younger workers, though, small physical size and inexperience may result in higher risk.

Each year in the United States, more than 25,000 children and adolescents are injured on farms, and nearly 300 die. The percent of fatal farm accidents involving children ranges from 14-24 percent. The source of these serious and fatal injuries is the same as it is for adults—agricultural machinery.

Agricultural machinery, including tractors, accounts for 70 percent of fatal and serious injuries. The problems of farm injuries are compounded by the rural areas in which they occur and the decreased access to medical care. More than half of the children who die from farm injuries do so without ever reaching a medical facility.

Less is known about the incidence and severity of illness than about injury in children in the agricultural setting. Although it is recognized that young workers are exposed occupationally to substances known to be hazardous to adults, including pesticides, studies examining the risks of acute poisoning, developmental impairment, chronic diseases or cancer from various exposure conditions in children are limited.

That the potential for exposure to chemical hazards exists is indicated by the reports of recurrent clusters of acute pesticide toxicity, which incidentally only identify massive exposures, higher rates of respiratory disease and certain types of cancer, and more recently, reports of increased rates of birth defects.

Another insidious hazard of child labor in the agricultural setting, as in any other setting, is the interference of such activity with the development of a child's basic educational skills. Employed children have inadequate time for school homework and suffer increased fatigue on school days. The high school dropout

rate among agricultural worker children is reported to be as high as 50 percent in some settings.

One reason for the childhood health hazards from farm work has been the double standard in labor legislation, that is, a lower minimum age in agricultural than in nonagricultural occupations.

The Academy applauds the efforts of Senators Metzenbaum and Dodd with the recent introduction of S. 600. We approve of the bill's aim to strengthen child labor enforcement schemes and to provide protection for minors under the age of 14 who are migrant or seasonal agricultural workers. We believe the bill would be stronger if it protected all children including those working on family farms.

To help prevent injury and illness in agricultural worker children in the United States we must develop better data on the scope and magnitude of health hazards among agricultural worker children; institute safety and health education programs with regard to hazards in the agricultural setting, and enforce existing Federal and State laws and regulations strictly.

On behalf of the Academy, I would like to thank you for helping to focus renewed attention on the issue of child labor and on minors who are migrant or seasonal agricultural workers. This hearing brings a new understanding of the task before us. There are a number of scientifically important articles from the medical literature dealing with this issue that I would like to include as part of my testimony and of the record.

I shall be glad to answer any questions.

Senator METZENBAUM. Your entire statement will be included in the record, including such other documentation as you might wish to provide us with.

[The prepared statement of Dr. Correa follows:]

PREPARED STATEMENT OF DR. ADOLFO CORREA

Good morning, Mr. Chairman. My name is Dr. Adolfo Correa. I am a pediatrician and an occupational epidemiologist. I am an assistant professor of pediatrics and occupational and environmental epidemiology at The Johns Hopkins Medical Institutions. I have had extensive experience in child health, public health and in epidemiology. Over the past four years I have worked in the assessment of occupational and environmental health hazards, in particular those affecting children and women of reproductive age.

I am here today on behalf of the American Academy of Pediatrics, an organization of 40,000 member pediatricians dedicated to promoting the health of infants, children, and adolescents.

The Academy wishes to express its appreciation to you, Mr. Chairman, and to the Subcommittee for holding this hearing on S. 600, the Child Labor Amendments of 1991. I will limit my remarks to the sections of this legislation that deal with child labor in agriculture.

Agriculture is unlike other occupations in that children make up a significant part of the work force. It is estimated that children under 14 years of age make up 19 percent of the farm population. Many of these children are employed by their parents; many more, for whom structured child care alternatives are unavailable, accompany their migrant families and work alongside them as seasonal laborers.

A systematic risk assessment of agricultural workers in the United States has not been done, so it is difficult to know at this time the range and actual magnitude of adverse health effects from agricultural work. Despite the lack of adequate mortality and morbidity surveillance systems, several physical and chemical hazards have been identified in the agricultural work force.

Agriculture is regarded as one of the most dangerous occupations in the United States today. Although farmers and other agricultural workers account for less than 3 percent of the work force, they suffer more than 10 percent of the work-related

deaths. Agricultural workers are among the industrial groups with the highest fatality rates from occupational injuries (i.e. greater than 20 per 100,000 workers per year).

Agricultural work poses similar hazards for children and adults. For younger workers, though, small physical size and inexperience may result in higher risks.

Data on injury among agricultural workers are provided by several reports. In a 1985 paper, Dr. Frederick Rivara reports that every year in the United States, more than 25,000 children and adolescents are injured on farms and nearly 300 die. These children are the group at higher risk of death; their rate of fatal injury compared with that of farmers of all ages is 26 percent greater. On a 1986 report of farm accidents in children, Dr. Tormoehlen indicated that in Indiana during the period from 1970 to 1981, 73 fatal agricultural accidents involved children under the age of 16. This represented over 14 percent of all agricultural accidents in Indiana during that time. He also noted that 25 percent of the 69 agricultural fatalities in Minnesota in 1981 involved children under the age of 15, and four of the 16 fatal agricultural tractor accidents identified in Wisconsin in 1980 involved children under the age of 14. These figures included both children actively performing work and those who were victims of work-site related hazards.

The source of these serious and fatal injuries is the same as it is for adults: agricultural machinery. Agricultural machinery, including tractors, accounts for less than 15 percent of fatal and serious injuries.

On a family farm, it is not uncommon for a child under 16 to be driving a tractor. Tractors account for the greatest numbers of equipment-related serious and fatal injuries to both children and adults on the farm. Overall, they account for only 8 percent of all farm injuries, but are responsible for one-third of all farm fatalities and more than half of farm machinery-related fatalities.

The problems of farm injuries are compounded by the rural areas in which they occur, and the decreased access to medical care. More than half of the children who die from farm injuries do so without ever reaching a medical care facility. Another 19 percent are dead by the time they are brought to a hospital emergency room.

Less is known about the incidence and severity of illness than about injury in children in the agricultural setting. Although it is recognized that young workers are exposed occupationally to substances known to be hazardous to adults, including pesticides, studies examining the risks of acute poisoning, developmental impairment, chronic diseases or cancer from various exposure conditions among children are limited. Evidence of exposure to chemical hazards among agricultural workers comes in the form of recurrent clusters of acute pesticide toxicity, which incidentally only identify massive exposures, higher rates of gastric cancer, and, more recently, reports of increased rates of birth defects.

Another insidious hazard of child labor in the agriculture setting, as in any setting, is the interference of such activity with the development of a child's basic educational skills. Employed children have inadequate time for school homework and suffer increased fatigue on school days. The high school drop-out rate among agricultural worker children is reported to be as high as 50 percent in some settings.

One reason for the childhood health hazards from farm work has been the double standard in labor legislation, that is, a lower minimum age in agricultural than in non-agricultural occupations.

The Academy applauds the efforts of Senators Metzenbaum and Dodd with the recent introduction of S. 600. We approve of the bill's aim to strengthen child labor law enforcement schemes and to provide protection for minors under the age of 14 who are migrant or seasonal agriculture workers. We believe the bill would be stronger if it protected all children including those working on family farms and those who are exposed to similar hazards, such as migrant or seasonal worker children. I would also recommend that the bill include provisions to eliminate or reduce exposure to dangerous agricultural hazards among other susceptible groups of workers, namely, adolescents and women of reproductive age.

To help prevent injury and illness in agricultural worker children in the United States we must:

Develop better data on the extent, nature and the severity of health hazards among agricultural worker children;

Institute safety and health education programs with regard to hazards in the agricultural setting;

Enforce existing federal and state laws and regulations strictly, with adequate levels of inspection personnel.

On behalf of the Academy, I would like to thank you for helping to focus renewed attention on the issue of child labor and on minors who are migrant or seasonal agricultural workers. This hearing brings a new understanding of the task before

us. There are a number of scientifically important articles from the body of medical literature dealing with this issue that I would like to include as part of my testimony. I shall be glad to answer any questions.

Senator METZENBAUM. Dr. Correa, would you say that farmworkers under age 14 are at a greater risk of suffering work-related injuries and deaths than older children and adults?

Dr. CORREA. The rate of fatal injuries in children under 14 years of age is about 100 per 100,000 workers of that age. That is a lower rate than other children, but it is a higher rate than the rate of fatal mortalities in the whole agricultural work force, which is about 20 per 100,000, and it is higher than the fatality rate in other industries.

Senator METZENBAUM. I understand that after spraying certain chemicals on crops, there is a mandated period before re-entry by farmworkers. Would you recommend the Department of Labor mandating different re-entry periods based upon the age of the worker?

Dr. CORREA. I think that given the smaller physical size and inexperience of children, they are probably at increased risk of exposure and maybe of adverse health risk. So it would make sense to try to take age into account in those re-entry periods.

Senator METZENBAUM. Thank you very much, Dr. Correa.

I noticed that Senator Durenberger was with us for a bit. I was very pleased that he joined us and hope he will be able to return.

We'll hear next from David Renfro, Commissioner of Labor from Oklahoma City, OK.

Mr. RENFRO. Thank you, Mr. Chairman.

First of all, let me thank you, Senator Dodd and other members of the committee for the opportunity to come here and share what our concerns as a State labor department regarding child labor are. I want you to please understand that we in Oklahoma believe very strongly in the importance of work in helping to develop a child's sense of self worth and character. As the commissioner of labor for the State of Oklahoma, I applaud those many good employers who provide those work experiences which do contribute to this positive developmental process. A child's first occupation outside of school work should help prepare him or her for the challenges of an adult labor market.

To do this, though, we must take steps to preserve the child's health and welfare as well as ensure that their work doesn't interfere with their capacity to benefit fully from school.

Oklahoma became a State in 1907. In 1910, we enacted the Oklahoma Child Labor Act. That 81 year-old law has remained virtually unchanged and unchallenged until this year.

The challenge this year to change our State's child labor law regrettably came not from increased sensitivity to statutory compliance nor from a concern about the potential for greater exploitation of working children. Instead it was motivated by the fine levied as a result of enforcement action by the U.S. Department of Labor and its recent nationwide Child Watch operation.

Oklahoma has the dubious honor of being home to the employer receiving the single largest fine in the Nation during that enforcement action.

The Oklahoma Department of Labor in coordination with our public schools issues between 5,000 and 6,000 work permits per year to minors. However, we know that all children in the workplace don't first obtain that permit.

Operation Child Watch revealed all too well the failure of existing Fair Labor Standards provisions to serve as an adequate deterrence to employer violations of child labor law. It did, however, serve to motivate interested parties, or perhaps more accurately, parties at risk, to take collective action to amend their own State child labor laws.

Information which should have served to enlighten us as to the need to strengthen our State's child labor law has frequently surfaced over the last several years not in the form of annual reports reflecting increased violations but instead in sensational news coverage of workplace tragedies—tragedies which include the electrocution of an illegally employed 14 year-old construction worker who was using a power saw at the time of his violent death. The contractor was assessed $100 for the violation. Also included in news coverage was the deadly explosion at a fireworks factory which killed 21 Oklahoma workers, three of whom were illegally employed children. In this case, the owner of the fireworks factory received a U.S. Department of Labor fine totalling $2,700 for child labor violations, was ordered to pay $25,816 in back wages, and $58,000 in OSHA fines. He was a multiple violator. A total of 11 children had been illegally employed in that fireworks factory at the time of the explosion.

Even though less tragic, during the mid-1980's, Oklahoma like other States was inundated by door-to-door candy solicitations by a sales force of child merchants, 9 to 12 year-olds. For-profit vendors use children under the age of 16 to canvass neighborhoods and solicit door-to-door. The children are paid a portion of the sales receipts while the bulk of the money for each candy bar went to the supervising vendor. By invoking our State child labor law which prohibits employing children for potentially injurious or immoral occupations, we were able to address this exploitive practice. The "candy man king", as he was called, or the mastermind of this scheme, was just recently sentenced in Federal court to 35 years imprisonment, not for child labor violations, but for intimidation in the workplace violations.

Through our affiliation with the National Association of Governmental Labor Officials, we learned that there is reason to believe that a positive correlation exists between the injury rate of working children and child labor violations. For instance, in 1990 the State of Washington's Department of Labor conducted a survey of work-related child injuries. It concluded that 44 percent of all injuries to children occurred while those children were working in violation of the Fair Labor Standards Act. Further, it concluded that 57 percent of the children seriously injured on the job were working in violation of child labor protections.

It is my belief as the commissioner of labor for Oklahoma that similar results would be revealed in my State if such a survey were undertaken. It is for that reason that I particularly appreciate section 5 of S. 600 which proposed to require such data compilation.

Motivated by the results of Operation Child Watch, groups within Oklahoma's grocery and restaurant industries, along with representatives from education, business and labor, worked together under the auspices of the State labor department to propose legislative amendments to our antiquated child labor law. As a result, we expect the Oklahoma State legislature will this month enact a measure which deletes archaic language, makes State law consistent with the Fair Labor Standards Act, increase fines for violations, and ensures the effective continuation of our age and schooling certificate, which I have previously mentioned as the work permit.

This legislation has already passed the State house of representatives and is now awaiting action in the State senate committee on labor. As a State with very significant interest in agriculture, we are sensitive to family farm values and needs. We believe the children of farm parents deserve the opportunity to contribute to their families' livelihoods and share the responsibilities of farm life.

While the protection of minors who are migrant or seasonal workers is an important and necessary component of any comprehensive child labor legislation, we should not infringe in the parent-child relationships inherent in family farming.

I again stress, Senator Metzenbaum, that the news coverage as sensational as it was, was not what motivated Oklahoma to take action to amend its child labor law and bring it into compliance and up-to-date with the Federal law. It was the fines and the penalties levied against those people who were illegally employing those children that did that.

I commend you, I commend the committee and the other authors of the bill, for taking the action that you are.

Thank you.

[The prepared statement of Mr. Renfro follows:]

PREPARED STATEMENT OF DAVE RENFRO

Let me first thank Senator Dodd and the Committee or the opportunity to share with you our concerns regarding child labor. It is important to understand that we in Oklahoma believe strongly in the importance of work in helping to develop a child's sense of self-worth and character.

I applaud the many good employers who provide those work experiences which contribute to this positive developmental process. A child's first occupation should help prepare him or her for the challenges of an adult labor market.

To do this, though, we must take steps to preserve the child's health and welfare, as well as endure that their work doesn't interfere with their capacity to benefit fully from school.

Oklahoma became a state in 1907. In 1910 we enacted the Oklahoma Child for Act.

That eighty-one year old law has remained virtually unchanged and unchallenged until this year.

The challenge this year to engage our state's child labor law regrettably came not from increased sensitivity to statutory compliance nor from a concern about the potential of greater exploitation of working children; instead it was motivated by the fines levied as a result of enforcement action by the U.S. Department of Labor in its recent nationwide Child Watch Operation. Oklahoma has the dubious honor of being home to the employer receiving the single largest fine in the nation during that enforcement.

The Oklahoma Department of Labor issues between 5,000 and 6,000 work permits per year to minors. However, we know that all children in the workplace don't first obtain a permit.

"Operation Child Watch" revealed all too well the failure of existing Fair Labor Standards provisions to serve as an adequate deterrence to employer violations of child labor law.

It did, however, serve to motivate interested parties—or perhaps more accurately, parties at risk—to take collective action to amend our own state child labor law.

Information which should have served to enlighten us as to the need to strengthen our state's child labor law has frequently surfaced over the last several years NOT in the form of annual reports reflecting increased violations, but instead in sensational new coverage of workplace tragedies.

Tragedies which include the electrocution of an illegally employed 14 year old construction worker who was using a power saw at the time of his violent death. The contractor was assessed $100.

Also included in news coverage was the deadly explosion at a fireworks factory which killed 21 Oklahoma workers, 3 of whom were illegally employed children. In this case, the owner of the fireworks factory received a U.S. Department of Labor fine totalling $2,700 for child labor violations, was ordered to pay $25,816 in back wages and $58,000 in OSHA fines. He was a multiple violator. A total of 11 children had been illegally employed in the fireworks factory.

Even though less tragic, during the mid-'80s, Oklahoma, like other states was inundated by door-to-door candy solicitations by a sales force of child merchants.

"For profit" vendors used children under the age of 16 to canvass neighborhoods and solicit door-to-door.

The children were paid a portion of the sales receipts while the bulk of the money for each candy bar went to the supervising vendor. By invoking our state law's prohibition on employing children for potentially injurious or immoral occupations, we were able to address this exploitive practice. The "candy-man king," as he was called or mastermind of this scheme, was recently sentenced in federal court to 35 years imprisonment.

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It is my belief as the Commissioner of Labor for Oklahoma that similar results would be revealed in my state if such a survey were undertaken. It is for that reason that I particularly appreciate Section 5 of Senate 600 which proposes to require such data compilation.

Motivated by the results of Operation Child Watch, groups within Oklahoma's grocery and restaurant industries, along with representatives from education, business and labor worked together under the auspices of the State Labor Department to propose legislative amendments to our antiquated child labor law.

As a result, we expect the Oklahoma state legislature will enact a measure which deletes archaic language; makes state law consistent with the Fair Labor Standards Act; increases fines for violations; and ensures the effective continuation of our Age and Schooling Certificate, previously referred to as the "work permit."

This legislation has already passed the State House of Representatives and is now awaiting action in the State Senate Committee on Labor.

As a state with very significant interest in agriculture, we are sensitive to family farm values and needs. We believe the children of farm parents deserve the opportunity to contribute to their families' livelihood and share the responsibilities of farm life.

While the protection of minors who are migrant or seasonal workers is an important and necessary component of any comprehensive child labor legislation, we must not infringe on the parent-child relationship inherent in family farming.

I again stress that even sensational news coverage of workplace tragedies which resulted in the careless killing Oklahoma children did not motivate action or organized group lobbying efforts to amend our laws. It took U.S. Department of Labor fines levied against employers alleged to be in violation to gain such support.

For that reason, I would hope that enforcement efforts like "Operation Child Watch" continue to ensure that employers remain motivated and stay informed in compliance with both federal and state child labor requirements.

The addition poultry, fish and seafood processing to the list of prohibited occupations for children under the age of 18 will be greatly beneficial in our mutual en-

forcement efforts. This is especially true of Oklahoma's rapid increase in the number of poultry processing plants.

Senate 600 will, in my opinion, enhance an already productive working relationship between the State Labor Department and the U.S. Department of Labor Wage and Hour Division.

For these reasons, I commend you, Senator Dodd, along with Senators Metzenbaum and Kennedy for authoring S. 600.

Senator METZENBAUM. Thank you very much for your testimony, Mr. Renfro. I can't tell you how important it is that people such as you are testifying in support of the bill. It is very meaningful to us as well as I might also say parenthetically—although we haven't yet heard from him—that the fact that school administrators like Mr. Anderson are also here supporting our legislative proposal.

You mention in your testimony that your State is considering new child labor legislation. Will that legislation require programs to educate children, parents and employers?

Mr. RENFRO. The legislation itself does not require an education program. That is something the State department of labor will be doing on its own.

Senator METZENBAUM. You indicated your support of S. 600's addition of poultry, fish and seafood processing to the list of prohibited occupations for children under 18. Are there additional occupations that you believe are particularly hazardous for children?

Mr. RENFRO. We agree with all the listed occupations that the Federal U.S. Department of Labor already lists. The poultry processing was especially important, Senator, because of the rapid increase in the number of poultry processing plants that are appearing especially throughout southeastern Oklahoma.

Senator METZENBAUM. Thank you very much, Mr. Renfro. We appreciate your testimony.

Mr. RENFRO. Thank you.

Senator METZENBAUM. Dr. Jack R. Anderson, superintendent of schools, East Ramapo School District, Spring Valley, NY, on behalf of the American Association of School Administrators.

We are happy to have you with us, sir.

Mr. ANDERSON. Thank you, Mr. Chairman.

On behalf of the American Association of School Administrators, AASA, I would like to thank you and the committee for the opportunity to testify this morning in very strong support of S. 600.

I am superintendent of the East Ramapo Central School District, Spring Valley, NY, a district of some 18,000 public and nonpublic school students. Today I am representing AASA as chairman of its Federal policy and legislative committee.

AASA is a professional organization of over 18,000 local school superintendents, other school education administrators and professors of education administration. Our association has been and continues to be deeply troubled by the increasing violations of child labor laws.

It is abundantly clear to those who have studied the issue that this exploitation of our Nation's children is coming at the expense of both their education and their health and safety. Stronger laws, coupled with more effective and aggressive enforcement, is certainly indicated.

The New York State Education Department recently studied part-time employment of high school juniors most of whom were 16

or 17 years of age. In this study they found sufficient negative aspects associated with students working 25 hours or more per week to cause great concern. The New York study indicated that approximately one-quarter of working students spend 25 hours or more per week on the job. These youth have the poorest grades, the most absences from school, and do the least homework. They are more likely to take fewer and easier courses because of the burden that work places on them, and they are the least likely to obtain a Regents' diploma.

This study also found that tobacco, alcohol and drug use was greatest among students who worked the most.

Our own studies at our local school district level showed that in the junior and senior high school years over 50 percent of boys and girls were working, and they tended to have the lowest energy levels; they had the highest tardiness and absenteeism; the drop in their academic achievement was discernible once they had started work, and interestingly enough, we found that academically at-risk students were least able to handle work in the workplace.

In general the long hours worked by students do not appear to be related to family economic needs. Few students contribute to family food and housing expenses. In fact, most of their earnings were spent on entertainment, clothes, cars and food outside the home.

As this committee certainly knows, there is an ever-increasing national consensus that public education must do a better job of educating our children. The President, the governors, and certainly Congress have all expressed a strong will and are striving to promote policies that will lead to increased student achievement levels. It would therefore be consistent with these efforts that we ensure that the abuse of our child labor force does not impinge on a student's chances of academic success.

This does not mean, of course, that children should not work. This does not mean that through working, valuable life skills and lessons can and indeed are learned each and every day. It does mean, however, that in being exposed to experiences that children cannot and must not be exploited by those with misplaced priorities.

AASA believes that S. 600 is important Federal legislation that is demanded by present child labor conditions. As an educational association we recognize the need for an appropriate balance between the hours worked by students, their health and safety in the workplace, business needs, and the priorities of education.

While the legislation as proposed has our strong support, we would urge consideration of the following: 1) it should be required that all school districts be made aware of employers in their region who violate the provisions of child labor laws. While the bill does include the provisions that affected schools be notified, we would suggest that all schools in the region be notified as to who the violators are.

2) While we strongly support the concept of written verification from the minor's school regarding school attendance, we believe that a second provision, namely one that addresses the issue of minimum academic achievement, should be considered. There

should also be a proviso that agencies notify school districts when there is an accident or a death in the workplace.

Now, Mr. Chairman, school superintendents don't go around asking for another layer of paper work or another layer of written reports or another layer of mandates. But I want to say this morning that most emphatically in this case, because of the seriousness of the issue that we are dealing with, we welcome those additional reports, and we welcome those additional supervisory responsibilities at the local school district level.

AASA strongly supports this legislation, and we will work aggressively in our own way to expedite its passage and its implementation.

Thank you very much for the opportunity of being here this morning.

[The prepared statement of Mr. Anderson follows:]

PREPARED STATEMENT OF JACK R. ANDERSON

Chairman Dodd, Chairman Metzenbaum and Members of the Subcommittee, on behalf of the American Association of School Administrators, I want to thank you for the opportunity to testify today in regards to S. 600. I do request that AASA's statement in strong support of this bill be entered into the record.

I am Jack Anderson, Superintendent of the East Ramapo Central School District in Spring Valley, New York. East Ramapo is a suburban school district of some 18,000 public and private school students. I am representing the American Association of School Administrators as Chairman of the Federal Policy and Legislation Committee. AASA is a professional organization of over 19,000 local school superintendents, other local education administrators and professors of education administration.

Our organization is deeply concerned with the current increase in child labor law violations. This trend suggests that current child labor laws are inadequate to protect the health and well-being of minors. The exploitation of our nation's children is coming at the expense of both their education and their health and safety. This issue must be addressed through more stringent child labor laws.

In 1990, the U.S. Department of Education published a report, *The Condition of Education*, which stated: "Working during the school year leaves less time for students to concentrate on their studies or to participate in extracurricular activities. On the other hand, students may learn from work experience those things they are not taught in the classroom. Those who work while in school may earn more after leaving school. A moderate amount of work (less than 15 hours per week) may be associated with higher completion rates and better grades. A substantial amount of work (more than 20 hours per week) may be detrimental to grades and attendance."

AASA is concerned with both the working habits and the hours worked by young people. There is considerable evidence to suggest that in all too many cases minors are working to the detriment of their academic well-being. According to the Department of Labor, in 1989, 33% of males and 37.2% of females, ages 16 to 18, were employed. This same report shows that employment of high-school-age youngsters follows our society's general employment trends. That is to say that employment of children rose through the 1970s, fell during the recession of the early 1980s, and then rose again during the late 1980s. Accompanying this increase in the employment of youth has been a significant escalation in child labor law violations. There are also strong indications that work, rather than education, has become the number one priority for all too many students.

As this Committee well knows, there is an ever increasing national consensus that public education must increase academic achievement for all children. Just last week I testified before the Subcommittee on Education, Arts and the Humanities on the issue of whether or not a national test and the establishment of a set of national standards in various curriculum areas would contribute to the improvement of education. The President, the Governors and Congress have all expressed a strong will to promote policies that will lead to the improvement of education. It would, therefore, be consistent with these efforts to ensure that the abuse of our child labor force not impinge an our chances of success. This goal can be achieved through appropriate legislation that is strongly enforced. This does not mean that children should not work; this does not mean that through working valuable life lessons and

skills cannot be learned. It does mean, however, that in being exposed to these experiences that children cannot, and must not, be exploited by those with misplaced priorities for the youth of our nation.

Our Association recognizes that work has many benefits for the youth of this nation if it is coupled with a sound, productive education, appropriate child labor laws and aggressive enforcement of the statutes.

We know that the employment of youth starts early and escalates throughout their scholastic careers, until the majority of all students are working for pay in their junior year in high school. So, this is a matter that impacts directly on the academic achievement of children at a very early point in their scholastic careers.

AASA believes that S. 600 is important federal legislation that is demanded by an ever increasing pattern of child labor law violations that have resulted in very significant work force accidents and deaths in the child labor force. Our Federal Policy and Legislation Committee has carefully examined this issue, and, after conferring with Senator Metzenbaum's staff, we are enthusiastically unanimous in our support of the legislation before us today. As an educational association, we recognize the need for an appropriate balance between the hours worked by students, their health and safety in the workplace, and the priority of education.

While the legislation as proposed has our strong support, we would urge consideration of adding the following provisions to the bill:

(1) It should be required that all school districts be made aware of employers in their region who violate the provisions of child labor laws.

(2) While we strongly support the concept of written verification from the minor's school regarding school attendance, we believe that a second provision, namely, one related to meeting of minimum academic standards, should be added.

(3) There should also be a proviso that state agencies, upon receipt of injury or death notification from an employer, provide said information to local school districts by region or county within the state.

Mr. Chairman, superintendents across this nation have a genuine concern and interest in both federal and state legislation. We are extremely sensitive to mandates, at any level, that would require burdensome regulations that add to our already heavy responsibilities in addressing societal needs. However, it is our considered opinion that S. 600 is legislation that treads on, none of our concerns regarding bureaucratic growth. The enactment of this bill will not place an undue burden on school districts, but will assist local educators in safeguarding the academic interests of children. From our earliest consideration of this legislation, we have found it to be consistent with the best interests of our children and their education. In fact, it goes hand in hand with those principles which both our academic and work counselors have worked so hard to instill in our students, parents and employers.

Mr. Chairman, AASA appreciates the opportunity to come forward in support of S. 600 and pledges our continued support in working for an early passage and enactment of this legislation.

Senator METZENBAUM. Senator Dodd has joined us. He is a co-sponsor of this bill and one of the most effective members of the U.S. Senate in leadership of legislation having to do with children generally. I am very happy to co-chair this hearing with him this morning.

Senator Dodd, do you have anything you want to say at this time?

Senator DODD. No, Mr. Chairman. I would appreciate your making my written statement a part of the record. We do have some charts to go over with the next panel, so I will wait until then and follow up with questions after yours.

Senator METZENBAUM. Your statement will be included.

[The prepared statement of Senator Dodd follows:]

PREPARED STATEMENT OF SENATOR DODD

Welcome to this joint hearing of the Subcommittee on Children, Family, Drugs and Alcoholism and the Subcommittee on Labor. I am pleased to join with my colleague, Senator Metzenbaum, in sponsoring legislation to better protect young people in the workplace and in conducting this hearing.

The Child Labor Amendments of 1991 reflect our deep concern that young people make their way into the world of work without risking their health, their success in

school, or, indeed, their futures. Thankfully, most teenagers do well in their part-time and summer jobs. It's an American tradition we can be proud of.

But there's another more troubling part of the picture. We think of sweatshops and of children who operate hazardous equipment and who fall asleep in school as long-banished horrors. Yet for many children, these horrors persist in 1991.

A new study by the General Accounting Office, released today, found that in 1988, 18 percent of all employed 15-year-olds were working illegally. In that age bracket alone, 166,000 children were working either too many hours or at jobs prohibited for their age. This is consistent with the alarming increase in detected violations of child labor laws. The number of children found by the Labor Department to be illegally employed soared to 38,000 in 1990, up from 9,200 in 1983. When the Labor Department conducted a nationwide sweep last year, they found that almost half of the businesses investigated were breaking the law. The American Academy of Pediatrics estimates that more than 100,000 children under the age of eighteen are injured on the job every year.

Clearly, our current law and current enforcement don't provide the necessary protection. The Department of Labor has turned greater attention to child labor, an effort which I applaud. But we need more. Here is how our bill would strengthen the law on child labor.

First, it would toughen penalties for violation of child labor laws. Current sanctions for violators amount to a slap on the wrist—the average fine is $160, easily absorbed as a routine cost of doing business. Last year we succeeded in raising the maximum civil penalty from $1000 to $10,000. Here we seek to deter employers from breaking the law through criminal penalties for extreme violations and other new penalties.

Second, the bill would increase public awareness of child labor laws through expanded use of employment certificates. Many parents, children, educators, and even employers simply aren't aware of the law. They don't know the age limitations for different types of work, the hours limitations, and the hazardous occupations that are completely off limits. I believe these provisions for greater public education will help avoid injuries and illegal employment.

Third, the bill would better protect farmworker children in migrant and seasonal agriculture. These children are at particularly high risk, due to exposure to toxic pesticides and disruption of school attendance. Yet exemptions in current law permit young children to work in this setting. Our bill applies the same prohibition against work for children under fourteen years of age that now applies in non-agricultural settings. I should add that the prohibition would not cover the family farm.

Entering the workforce is a true crossroads in a young person's life. Successful entry into the world of work enhances the child's chances for success as a productive member of society. On the other hand, if the child is among the 100,000 minors injured on the job every year, or if the child works so many hours that school performance plummets, chances for success suffer. Numerous studies have found that grades decline when children work too many hours during the school week. When one fifth of children fail to complete high school on time, we must do everything possible to help teenagers strike the right balance between work and school.

Today's witnesses bring a full range of perspectives on the modern-day problem of child labor. As a society, striking the right balance for our teenagers will require the ongoing efforts of parents, educators, health professionals, regulatory agencies and businesses, all of whom are represented here today. I look forward to hearing the testimony and to working together for the well-being of our nation's teenagers and their families.

Senator METZENBAUM. Dr. Anderson, you state in your testimony that there are indications that work rather than education has become the major priority for all too many students. What are those indications about which you speak?

Mr. ANDERSON. The increasing need and desire of the students to meet societal competition, if you will, in terms of the type of clothes that are worn, the cars that are driven, the things, Mr. Chairman, that are outside of the critical issues of education and preparing oneself for productive life in our society.

I am deeply concerned about those peer pressures that are placed on our students, and it seems to me that in order to address them,

they do seek to make money in the workplace—not to support their families, but to engage in those activities that I outlined.

Senator METZENBAUM. Thank you. Do you have any knowledge with respect to any schools that are members of your organization that have programs to educate students, parents and teachers about child labor laws. Also do you have any way of knowing which students are working and whether this work is affecting academic performance?

Mr. ANDERSON. We do, Mr. Chairman, but I would have to confess that it is primarily in special programs such as school-to-employment programs which children are involved in and does not apply to the cross-section, if you will, or the majority of those students who are in the workplace. And your allusions earlier to the need for perhaps educating our children through a three-hour or five-hour or whatever seminar in terms of the important issues here is one that I certainly want to take back to my school district.

Senator METZENBAUM. That would be excellent. As a matter of fact my understanding is that it is your school where our staffer graduated. So I don't know if maybe you've got an inside track with this committee as a consequence.

Mr. ANDERSON. I can assure you, Senator, you will be well-served by that young lady, and you know that better than I.

Senator METZENBAUM. We are well-served by her.

Senator Dodd.

Senator Dodd. Thank you very much, Mr. Chairman.

First of all let me join you in welcoming Matt Garvey and his mother to the committee. I had the privilege of meeting Matt—in fact we appeared on a television program together a number of weeks ago. And I said then, Mr. Chairman, and I know you agree with this, that it takes a special kind of courage to come forward and tell your story.

Fernando, we appreciate your being here as well. It is very important that we have not just statistics and data and discussions about this, but actually people, real people, who have been through these experiences and can speak with personal knowledge about what happened. I think it sometimes makes it easier for people to understand that than it is to remember a lot of numbers. No matter how significant those numbers are, you put a name and a face to that data, and by being here you really help us tremendously. So I want you to know how much I appreciate it.

I am sorry for being late. We had a hearing this morning involving a major issue involving our State, I would say to my co-chairman, involving submarine construction in the State of Connecticut, and it unfortunately coincided with this morning's hearing. So I do apologize to all of you for not being here at the inception of this hearing.

If I can, let me just ask a couple of questions.

Dr. Correa, I wonder if you might comment about the vulnerability of children when it comes to chemicals and pesticides. I held a hearing in this committee a year or so ago about Alar, a pesticide that now is gone, and we heard from the FDA and so on about the particular threat of pesticides to humans. I remember one of the physicians that day made what I thought was a particularly important statement. First of all, the number of apples consumed by

younger people vastly exceeds that consumed by older people. He made the case that young people's smaller bodies, not yet mature, the effect of chemicals and pesticides can be far more profound than on an adult.

I wonder if you might comment on that since we have a lot of children and young people working in this particular area. How significant is that particular threat?

Dr. CORREA. Actually, I think most physicians would tend to agree with that statement I made before, that children by their size and less-developed metabolism may have greater exposures or toxicity from those exposures. The extent of the effects of those exposures are not well-documented. We don't have good surveillance systems that tell us the magnitude of that problem.

Senator Dodd. What sorts of studies should be conducted if we are to examine this question thoroughly and get some accurate information?

Dr. CORREA. To begin with, some cross-sectional surveys of migrant workers or those children who are at risk of being exposed to these chemicals, and also some follow-up studies to see what the long-term effects of those exposures might be.

Senator Dodd. That could be very helpful. Maybe we could include something like that in here.

Mr. Renfro, you made particular note in your testimony of the bill's importance when it comes to the area of data collection. Section 5 of the bill, as you know, requires employers to notify the State of deaths or serious injuries affecting minors. I wonder if you'd tell us why this particular point is important to your State.

Mr. RENFRO. Thank you, Senator Dodd.

Oklahoma is unique in that we have a program that is set up legislatively to help us consult through our State OSHA program with employers who are targeted for potential hazardous industries. This would enable us to be able to look at the data, to make determinations where we have a particular problem in the way of injury to minors, and that would authorize us, then, with that data, would arm us to be able to go to those targeted industries, those targeted businesses and employers, not just with a consultation program, which will help the employer in worker compensation premium rates, but also do what the job is intended to do, and that is take the juvenile out of a dangerous situation that we were otherwise unaware of.

Senator Dodd. That will be very helpful to you, then, and others.

Mr. RENFRO. Yes, sir. Could I make a quick mention—I was hoping to have time to do this earlier—but it was stated earlier in previous testimony by assistant secretary Walker about cooperating after the fact with civil penalty rather than using criminal penalties to impose cooperation before the fact.

In Oklahoma, I can tell you as a commissioner I would much, much rather have mandatory cooperation before the fact even if it requires criminal sanction to get the job done, forcing them to be aware of it, cooperate with us, than coming in after a fireworks explosion that kills three kids or electrocutes a 14 year-old construction worker and seek civil compliance afterward, regardless of penalty.

Senator Dodd. I agree with you totally. In fact that is not theory. We know that works in other areas where you get that kind of participation.

Mr. Anderson, I wonder if you might tell us briefly how work permits are currently handled in your State. What is the division of labor between the schools in this particular area and State agencies?

Mr. ANDERSON. At the present time, the schools in the State of New York are those that execute the work certificates and work permits. Those are filled out by the students, by the parents, and the employer. Each child is issued a work permit that is valid for 2 years. Each of those work permits, depending on the level, ranging from a newspaper carrier to a less stringent level to those working full-time, are given work cards which they take to their employer, and on those cards are spelled out the conditions which apply to that particular age student and the particular aspect of whether it is full-time or part-time. Full-time could be in the summer, for example. A child at 14 would have to get a work permit renewal at 16. At 15, you would have to get a renewal at 16. So it runs from 14 to 16, 16 to 18. And there are different levels of certificates, of course.

Senator Dodd. But you are satisfied with the level of cooperation?

Mr. ANDERSON. I am satisfied, Senator, that at this time there is not a sufficient level of regulations that would in my opinion effect greater cooperation by those responsible for hiring students. And furthermore I don't believe even with the lower level of statutes that we have now in this area—and that is my opinion—that there is sufficient enforcement of those statutes. I think we can pure and simply say that there has been a 343 percent increase in violations in this area since 1983, and someone is not enforcing even those statutes that we have on the books today.

Senator Dodd. You said something very important a few minutes ago in response to one of Senator Metzenbaum's questions, and I just want to reinforce it because I am sure it is one of the arguments that Senator Metzenbaum and I will face both in this committee and on the floor of the Senate as we try and move this legislation forward. That is, "here you go again, you are imposing yet another layer of paperwork and bureaucratic burden on the school systems." And that is a complaint that has some legitimacy from time to time when we do things.

But I heard you say that you welcome this particular requirement, that you welcome the certificate requirement.

Mr. ANDERSON. I have been one of those who have complained in the past regarding the bureaucracy that we deal with. But in this case, the issue is so important, it is so central to the fabric of this Nation in my opinion and to the growth and development of these young children, that we cannot object to it.

In fact, in my testimony I have proposed even additional types of reports that should be effected in terms of this legislation.

So while I am one of those complainers and have been for years, in this case a responsible school superintendent in my opinion simply must accept that we must do our part with the Congress in order to have more effective supervision in the child labor force.

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Senator Dodd. Very good.

I lastly want to ask you about the educational efforts. I think we all agree that education is the best prevention here. But I wonder if you might just share with us some good models you are aware of around the country, or what techniques you think might be the most effective in utilizing the educational system as a way of making students and teenagers aware of some of the problems and hazards involved with all of this so they will know what to look for.

Mr. ANDERSON. It seems to me that the best way is the education model, and it is one that we use to some extent in our school district—it isn't as extensive as it should be—and that is one in which students, employers and parents are counseled by work counselors from the schools in terms of what the laws are, in terms of what is trying to be achieved, in terms of the monitoring that must take place, in terms of no diminution in student achievement. Those person-to-person contacts at the grassroots level are the most effective ways of bringing about the education, I believe, in terms of what the issues are here. And I will admit that we need to be more aggressive in this area.

Senator Dodd. Very good. I thank you very much. I thank all of you for being here today and thank you for your testimony.

Senator METZENBAUM. I want to thank this panel. You have been particularly helpful to us. I particularly want to thank the young people on the panel; all of you. Your testimony is extremely helpful to us.

Senator Dodd. Mr. Chairman, we've got some charts we want to share with you.

Senator METZENBAUM. All right. The co-chair is going to have to excuse himself because I have a Judiciary Committee meeting that I must get to, and they have been holding up matters until I get there.

I am going to ask Senator Dodd if he would be good enough to take the chair.

Senator Dodd. [Presiding.] Thank you, Mr. Chairman, and I apologize to you for not being over here earlier.

Senator METZENBAUM. Thank you very much.

Senator Dodd. As this panel is leaving, I will ask the next panel to join us.

Mr. James Coleman is general counsel for the National Council of Chain Restaurants. And Ms. Jackie Trujillo is executive vice chairman and president of operations, Harman Management, Los Altos, CA, and is testifying in behalf of the National Restaurant Association.

As you join us at the table, I am going to draw your attention to—not only those witnesses who are leaving and coming, but also the others in the room—this data that is available for the first time today. It has not been out in the past. And I would have liked to have done this for people at the outset of the hearing so you could get a real flavor of what we are talking about here.

The first graph is a study of 15 year-olds conducted by the General Accounting Office and is released for the first time today. We requested this study to be done. The General Accounting Office found that 166,000 teenagers were working illegally in 1988. I am particularly alarmed by the 99,000 working in prohibited occupa-

tions, since we know that teenagers are most likely to be injured in these very dangerous situations. But that is really a stunning level of violations that we are dealing with out here. This is not a minor problem when you look at those numbers and the assessment that has been done.

The second graph shows the increase in detected child labor violations. They went from about 9,000 in 1983 to 38,000 in 1990. When the Department of Labor conducted its national sweeps last year—and I give them great credit for having done that—they found violations in almost half of the workplaces that they investigated.

Our child labor laws are not working, I would suggest, when 38,000 people are found to be working illegally, whether it is because their hours are too long, or they are in jobs that are prohibited. As I said, that is alarming. In the sweeps, every other place they went, they found violations of the law.

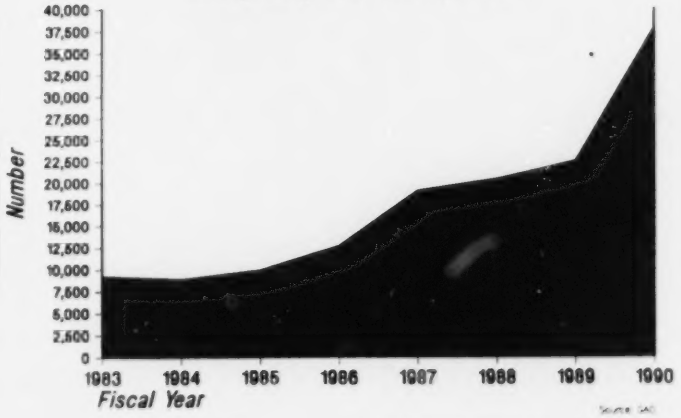
The third graph shows the penalties and fines. And again, we have talked about this in the past. The average fine has actually dropped. If you take the 1983 average and you look at the 1990—there actually was a little drop in 1986 and 1987 and 1988, but it goes back up even higher in 1989—but in 1990, it dropped from the 1983 figures. But they are all hovering in that $160 range. That is a few days' work. It is hardly a matter of deep concern if the violation you are going to face is so minor.

[The graphs referred to follow:]

GAO Estimate of Illegal Work By 15 Year Olds, 1988

- Hours standard violation:
  - 9 percent
  - 83,000
- Minimum age (prohibited occupations) violation:
  - 11 percent
  - 99,000
- Total children in violation:
  - 18 percent
  - 166,000

Federally Detected Illegally Employed Minors

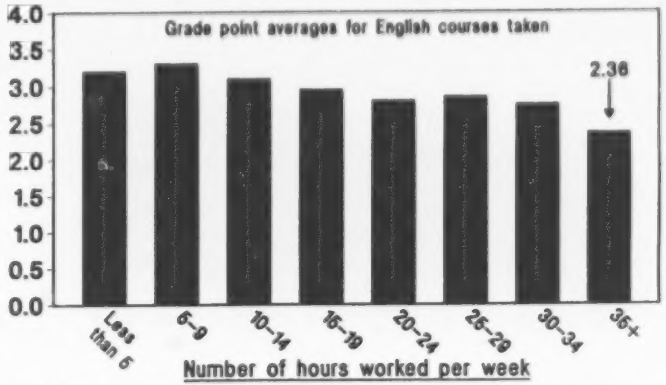


Child Labor Civil Penalty Assessment

Fiscal Year	Average assessment per minor
1983	$163
1984	$166
1985	$162
1986	$153
1987	$150
1988	$155
1989	$165
1990	$160

Source: GAO

Grades Decline When Students Work More Than 10 Hours A Week



Source: New Hampshire Department of Employment Security, 1990 study

Without people out there checking, and when you do get caught if this is the kind of fine you pay, there isn't the incentive—I don't think anyone would disagree—to tighten up in this area.

Finally, this is an academic performance chart, looking at the relationship between time worked and academic performance. I know many people try to play down the problem of teenagers working too long, but this chart shows that as hours increase, grades fall. Obviously, everyone wants academic performance to increase, and I think it is critically important that we take a look at that. You can there see quite clearly what happens with the number of hours and what happens to students generally.

I also want to emphasize, by the way—and I have said this before—that this hearing should not be perceived as a hearing which is trying to discourage young people from holding jobs. This is very important to their development. It is necessary in many cases. So this is not in any way to suggest that we're talking about the prohibition of young people working—but rather, making it possible for them to work and perform in school and be in a safe place where kids don't have to worry and their parents don't have to worry about them, as we have seen in a couple of cases here today where significant injuries can be involved.

So that is really the purpose of this. But we get arguments from time to time, people saying the academic performance issue is not that important, and there aren't that many people violating the law, and we've got stiff enough penalties on the books. But I think our graphs here this morning would say quite the contrary—it does affect academic records; there are too many violations out there, and the fines we are imposing are really nonexistent, almost nonexistent, when violators are caught.

Senator Dodd. So with that background and that information, I want to thank our last panel for being here this morning and appreciate your waiting as long as you have to testify. We welcome you here. All of your prepared statements will be included in the record in toto and any supporting documentation you would like to add, I will guarantee you will be included in full in the record. If you could keep your statements down to 5 or 6 minutes or so, then we can get to some questions.

We'll begin with you, Mr. Coleman. Thank you for being here.

STATEMENTS OF JAMES M. COLEMAN, ESQUIRE, GENERAL COUNSEL, NATIONAL COUNCIL OF CHAIN RESTAURANTS, WASHINGTON, DC; AND JACKIE TRUJILLO, EXECUTIVE VICE CHAIRMAN AND PRESIDENT OF OPERATIONS, HARMAN MANAGEMENT, LOS ALTOS, CA, ON BEHALF OF NATIONAL RESTAURANT ASSOCIATION, ACCOMPANIED BY LINDA HILL, MANAGER AND CO-OWNER

Mr. COLEMAN. Thank you, Mr. Chairman.

My name is James Coleman, and through my law firm, Power and Coleman, I serve as general counsel to the National Council of Chain Restaurants. I am pleased to be here today to be given this opportunity to address the subject of child labor restrictions under the Fair Labor Standards Act.

Let me begin by briefly describing the National Council of Chain Restaurants. It is a national trade association headquartered in Washington whose membership is comprised of 36 of the Nation's largest multiunit and multistate restaurant and hotel chains. Collectively, these 36 companies own and operate over 20,000 restaurant and lodging facilities. Additionally, through franchise and licensing agreements, another 50,000 restaurant and lodging facilities are operated under their trademarks. In the aggregate, the council's member companies and their licensees employ in excess of 1.5 million individuals.

Let me state at the outset that without exception the membership of the council whole-heartedly supports full compliance with all applicable child labor restrictions. Tremendous focus has recently been drawn upon the subject of child labor as a result of last year's significant increase in enforcement efforts by the Department of Labor.

However, I believe that the results of the Department of Labor's recent and intensive investigative focus in this area should be evaluated within the context of the extremely large number of minors who are lawfully employed in the industry.

I would also like to point out that the members of the council work very hard to achieve full compliance with applicable child labor restrictions. All members have strict company policies which at a minimum mandate compliance with the restrictions and in many cases mandate standards which go beyond the restrictions contained in the law.

It should also be remembered that while there are provisions of the existing standards that are objective and capable of only one interpretation, there are many provisions which are subjective and thus capable of numerous interpretations and in fact are interpreted somewhat differently and enforced differently depending upon the particular compliance officer conducting the investigation. This does have the impact of significantly complicating compliance.

With regard to the recently introduced legislation known as the Child Labor Amendments of 1991, the council must go on record as vehemently opposing the increased criminal and civil penalties proposed in that legislation as well as the employment certificate program which would require all teenagers under the age of 18 to obtain a certificate of employment from a designated State agency before they could be lawfully employed.

As to the increased criminal and civil penalties, the council believes that such severe sanctions are unnecessary, misguided and will only result in the elimination of job opportunities for teenagers. It should be noted that the Fair Labor Standards Act already contains criminal sanctions for willful violations. Moreover, the council would like to draw the Subcommittee's attention to the fact that only a few months ago Congress amended the civil money provisions of the act by increasing the maximum civil fine that may be imposed for a child labor violation from $1,000 to $10,000. This 10-fold increase in the statutory civil money penalty was so recently enacted that no one has yet had the opportunity to evaluate its impact, either positively in terms of increased compliance, or negatively in terms of reduced job opportunities for teenagers.

The council respectfully suggests that before these Subcommittees recommend further legislation, increasing the criminal and civil penalties beyond the existing sanctions as recently amended, *an evaluation should be made of the impact* of last year's 10-fold increase in civil fines.

With regard to the pending legislation's proposal to establish a new certificate of employment program, requiring all employees under the age of 18 years who have not yet graduated from high school to affirmatively apply to a designated State agency and obtain a certificate from that agency before they can be lawfully employed, the council is very much opposed. The certificate program would be a tremendous administrative burden not only for the teenage individuals desiring employment but for employers as well as the designated State agencies who possess neither the funding nor the personnel to properly administer such a program. Furthermore, such a program does not appear to offer any additional substantive benefits whatsoever to those that it is intended to help.

While the council understands that the certificate program is primarily intended as a means of educating teenagers, parents and employers as to applicable child labor restrictions as well as a means of gathering relevant statistical information concerning employment of teenagers, both of which are laudable goals, it is again respectfully suggested that both goals can be pursued and achieved through existing law without the necessity of creating yet another Government document in order to lawfully employ an individual. Not only can the goals of education and information gathering be achieved through existing law, but we feel it can be done without the chilling effect that such a certificate program would have on the employment of teenagers.

Obviously I am here today as an advocate for employers. However, I am also the father of two young sons, and from a personal perspective I would not want to see legislation passed which, no matter how well-intended, would have the practical result of eliminating literally millions of part-time job opportunities for teenagers. I do believe, however, that if such cumbersome paper work requirements as are proposed in this legislation become law, and that if the criminal and civil penalties are further increased, the vast majority of employers will take all possible steps to avoid employing teenagers.

When you combine the severe restrictions that are already placed on the employment of teenagers, civil fines of up to $10,000 per violation, not to mention criminal penalties, the prudent business decision will be to eliminate these risks entirely by simply not employing individuals who fall within the restricted age group.

Some of the council's members have already implemented firm company policies mandating a 16 year-old minimum age for employment. Not surprisingly, there are not only teenagers who have been denied employment who are angered by these policies, but the parents of these individuals have contacted many of the employers as well. If the current law is further amended, it is an absolute certainty that teenagers currently employed are going to lose jobs, and those desiring and indeed those in financial need of employment will be denied that opportunity.

Like almost every other piece of legislation Congress considers, this legislation has a cost, only this cost will be measured not in dollars but in terms of lost jobs and lost job opportunities for America's youth.

Thank you.

Senator DODD. Thank you, Mr. Coleman.

[The prepared statement of Mr. Coleman follows:]

PREPARED STATEMENT OF JAMES M. COLEMAN

Good Morning. Mr. Chairman and members of the subcommittees, my name is James Coleman and through my law firm, Power & Coleman, I serve as General Counsel for the National Council of Chain Restaurants. I am pleased to be here today and to be given this opportunity to address, on behalf of the Council, the subject of federal regulation concerning the employment of teenagers under the Fair Labor Standards Act.

Let me begin by briefly describing the National Council of Chain Restaurants. The Council is a national trade association headquartered in Washington, D.C., whose membership is comprised of thirty-six of the nation's largest multi-unit, multi-state restaurant and hotel chains. Collectively, these thirty-six companies own and operate over 20,000 restaurant and lodging facilities. Additionally, through franchise and licensing agreements, another 50,000 restaurant and lodging facilities are operated under their trademarks. In the aggregate, the Council's member companies and their licensees employ in excess of 1.5 million individuals.

Let me state at the outset that without exception, the membership of the Council wholeheartedly supports full compliance with all applicable child labor restrictions. Tremendous focus has recently been drawn upon the subject of child labor as a result of last year's significant increase in enforcement efforts by the Department of Labor. However, I believe that the results of the Labor Department's recent and intensive investigative focus in this area should be evaluated within the context of the extremely large number of minors who are lawfully employed in the industry. Every measure of success or failure is necessarily relative.

Thus, when we focus on the alleged violations resulting from the recent Child Labor Investigative sweeps, we must remember that there are about 3.5 million sixteen and seventeen year olds who are classified as part of our nation's labor force, and millions more under age sixteen who are permitted to work under existing regulations. The number of alleged violations that have been reported by the Labor Department are but a small fraction of the total number of minors who are lawfully employed. This is not meant to justify any child labor violations, but it is intended to draw attention to the good, as well as the bad; that is the millions of minors that are lawfully employed within the limits of the law and who enjoy the benefits provided by employment in the food service industry.

I would also like to point out that the members of the Council work very hard to achieve full compliance with the child labor restrictions. All members have strict company policies which at a minimum mandate compliance with all applicable restrictions, and in many cases mandate standards which are more restrictive than the law provides. Our members have detailed systems of safeguards and checking procedures to thoroughly train restaurant managers regarding child labor law limitations and compliance. Most companies have strict disciplinary systems which result in substantial penalties, including termination of employment, for management employees who are responsible for child labor violations. However, it should be noted that it is a rare instance when a manager knowingly and intentionally causes a violation of the child labor restrictions. To the contrary, most violations are inadvertent and unintentional, and certainly not the result of any conscious and intentional effort to violate the law.

It should also be remembered that while there are provisions of the existing child labor standards that are objective and capable of only one interpretation, there are many provisions which are subjective and thus capable of numerous interpretations, and, in fact, are interpreted differently and enforced differently depending upon the particular Compliance Officer conducting the investigation. For example, Child Labor Regulation 3, which pertains to fourteen and fifteen year old employees, contains both occupational and hours restrictions. In its occupational restrictions, the regulation expressly permits fourteen and fifteen year old employees to perform, "Kitchen work and other work involved in preparing and serving food and beverages, including the operation of machines and devises used in the performance of such work." However, the same regulation at a different provision, prohibits "cook-

ing and baking," but even the cooking prohibition contains its own exception if the cooking is performed at soda fountains, lunch counters, snack bars, or cafeteria serving counters. Even the most sophisticated employer would encounter difficulty in attempting to discern precisely what is permissible and what is not, under the foregoing provisions of Child Labor Regulation 3. Questions arise such as, "How does permissible kitchen work and other work involved in preparing and serving food and beverages, differ from prohibited cooking and baking?" And even if an employer could figure out what is prohibited cooking, why is the same job permissible if performed at soda fountains, lunch counters, snack bars, and cafeteria serving counters, yet it is prohibited if performed elsewhere. If the foregoing provisions sound a bit confusing to the Members of this subcommittee, imagine how they must sound to the restaurant manager who is attempting to discern how not to violate the law. Compliance is further complicated when different Compliance Officers from different regions investigate different units of a nationwide chain operation, and each has a different interpretation as to what is permissible and impermissible activity. The point that I am attempting to make, is that compliance is an extremely complex matter, and this does not even begin to take into consideration the numerous conflicting and differing state child labor restrictions which are equally applicable to employers covered by the Fair Labor Standards Act.

Focusing for a moment on the hours restrictions contained in Child Labor Regulation 3, while these provisions are more easily understood in terms of what activity is prohibited and what is permissible, many employers question the reasonableness of some of the limitations. For example, fourteen and fifteen year old employees are limited to a maximum of three hours per day on any day when school is in session, and eighteen hours per week during any week when school is in session. On top of these daily and weekly hours limitations, the regulation further prohibits these employees from working past 7 P.M. on any day falling outside of the summer months of June, July and August. We question both the reasonableness and the necessity of the 7 P.M time limit, given the other daily and weekly hours restrictions. Without question, and for obvious reasons due to the dinner rush, the 7 P.M. time limit forms the basis for the vast majority of child labor violations in the food service industry.

It should be noted that with regularity school sponsored events run until 10 and even 11 P.M. on week nights. Frankly, we fail to see the substantive difference between a fifteen year old working after school from 3 P.M. until 6 P.M., and the same individual working from 6 P.M until 9 P.M. In either case, the total work is limited to three hours; while the afternoon work schedule allows evening study time, and the evening work schedule allows afternoon study time. Given the safeguards provided by the daily and weekly hours limitations, the Council favors a regulatory modification moving the 7 P.M. time limit to 9 P.M. I would like to stress however, that this can and should be considered in the regulatory, rather than legislative context.

With regard to the recently introduced legislation known as the "Child Labor Amendments of 1991", the Council must go on record as vehemently opposing the increased criminal and civil penalties proposed in that legislation, as well as the employment certificate program which would require all teenagers under the age of 18 years to obtain a certificate of employment from a designated state agency before they could be lawfully employed. As to the increased criminal and civil penalties, the Council believes that such severe sanctions are unnecessary, misguided, and will only result in the elimination of job opportunities for teenagers. It should be noted that the Fair Labor Standards Act already contains criminal sanctions for willful violations. Moreover, the Council would like to draw the subcommittees' attention to the fact that only a few months ago Congress amended the civil money penalty provisions of the Fair Labor Standards Act by increasing the maximum civil money penalty that may be imposed for a child labor violation from $1,000.00 to $10,000.00. This tenfold increase in thee statutory civil money penalty provisions was so recently enacted that no one has yet had an opportunity to evaluate its impact either positively, in terms of increased compliance, or negatively, in terms of reduced job opportunities for teenagers. The Council respectfully suggests that before this subcommittee recommends legislation further increasing the criminal and civil penalties beyond the existing sanctions, as recently amended, an evaluation should be made of the impact of last year's ten-fold increase in civil fines.

With regard to the pending legislation's proposal to establish a new certificate of employment program requiring all employees under the age of 18 years who have not yet graduated from high school, to affirmatively apply to a designated state agency, and obtain a certificate from that state agency before they can be lawfully employed, the Council is very much opposed. The certificate program would be a

tremendous administrative burden not only for the teenage individual desiring employment, but for the employers, as well as the designated state agencies who have neither the funding nor the personnel to properly administer such a program. Furthermore, such a program does not appear to offer any additional substantive benefits whatsoever to those it is intended to help. While the Council understands that the certificate program is primarily intended as a means of educating teenagers, parents and employers as to the applicable child labor restrictions, as well as a means of gathering relevant statistical information concerning employment of teenagers, both of which are laudible goals, it is again respectfully suggested that both goals can be pursued and achieved through existing law without the necessity of creating yet another government document in order to lawfully employ an individual. Not only can the goals of education and information gathering be achieved through existing law, but it can be done without the chilling effect that a certificate program would have on the employment of teenagers.

Obviously, I am here today as an advocate for employers. However, I am also the father of two young sons, and from a personal perspective, I would not want to see legislation passed which, no matter how well intended, would have the practical result of eliminating literally millions of part time job opportunities for teenagers. I do believe, however, that if such cumbersome paperwork requirements as are proposed in this legislation become law, and that if the criminal and civil penalties are further increased, the vast majority of employers will take all possible steps to avoid employing teenagers.

When you combine the severe restrictions that are already placed on the employment of teenagers, civil fines of up to $10,000 per violation, not to mention criminal penalties, the prudent business decision will be to eliminate those risks entirely by simply not employing individuals who fall within the restricted age group. Some of the Council's members have already implemented firm company policies mandating a sixteen year old minimum age for employment. Not surprisingly, not only are the teenagers who have been denied employment under these polices angered, but their parents have made their own displeasure known by contacting these employers. If the current law is further amended as proposed, it is an absolute certainty that teenagers currently employed are going to lose jobs, and those desiring, and indeed those in financial need of employment, will be denied that opportunity. Like almost every other piece of legislation Congress considers, this legislation has a cost; only this cost will be measured not in dollars, but in lost jobs and lost job opportunities for America's youth.

I also believe that it bears noting that while there are those who would condemn the concept of any part-time employment for teenagers, that such condemnation is not based on fact or logic. To the contrary, a number of studies have been performed which analyze the value of part-time teenage employment. For example, the March, 1989 publication of the Educational Testing Service, entitled "Earning and Learning," concluded in analyzing a 1986 study performed by the National Assessment of Education Progress, which is funded by the U.S. Department of Education, that, "The results of the 1986 NAEP Assessment and other major research efforts indicate that there is no cause for alarm about the effect of student work on academic achievement." The publication went on to conclude that the, "Average proficiency in mathematics, reading, history, literature, and science differed little between students who worked and those who did not." This study, by the way, focused on a survey of 29,000 eleventh grade students, approximately 54% of whom reported working some amount of time each week.

Interestingly, the study revealed that the amount of time spent watching television was considerably lower among students who worked than among those who did not work at all. Certainly, this should not be viewed as an adverse consequence of part-time teenage employment. The point is that the vast majority of part-time teenage employees are involved in positive work experiences. They acquire more than simply an hourly rate of pay in exchange for each hour worked. Numerous general skills that are absolutely essential to a successful working life, such as responsibility, team work, interpersonal skills, and many others, are acquired through part-time teenage employment. The vast majority of teenage employees view their early employment experience as being very positive, as do most adults when asked to comment on their first "real" job beyond mowing lawns and babysitting.

In 1984 the National Institute for Work and Learning, a non-profit organization chaired by the former Secretary of Labor, Willard Wirtz, conducted a study of fast food jobs which provides the following relevant facts:

—profile of fast food workers: 66% are female; 70% are 16–20 years old; the industry is racially representative of the nation as a whole; 88% come from low or middle

socioeconomic backgrounds; 65% are high school graduates; 59% have grades of B or better and are planning to continue their education beyond high school

—as educational attainments increase, so do the percentages of employees who believe that training and supervision are desirable tasks

—fast food employees are required to perform a wide variety of tasks, a number of which are clearly transferable to other jobs and domains of an individual's life:

Supervisory skills
Skills related to training others
Knowledge of how a business runs
Skills required for dealing with people
Learning to work with others
Taking responsibility for mistakes
Learning to take direction
Dependability

—25% feel that they get along better with their parents

—61% of teachers, and 64% of school counselors approve of employment in fast food jobs

—the more hours and longevity an employee invests in a job, the more satisfaction is derived

—many fast food employees realize that there are opportunities for advancement; almost half of these would like to move up to a more responsible position in the company.

While this study focused on the so-called fast food segment of the food service industry, we believe that its findings are generally representative of other types of national food service chain operations, such as coffee and donut shops, family restaurants and others that are also members of the Council.

With further regard to the relationship between part-time employment and education, many of the Council's member companies have in place educational programs and policies designed to reward and support further educational successes by their teenage employees. Virtually all the Council's members provide flexible scheduling policies that take into consideration the student/employees outside demands and many of them have tuition reimbursement plans and scholarship awards. Council members place great emphasis on attracting and retaining young employees and are cognizant of accommodation with regard to exams, extra curricular activities and the need to accomplish school work assignments.

In summary, the Council and its membership fully recognize the importance of full compliance with all applicable child labor restrictions. While the existing compliance record is not perfect, major strides have been made towards achieving a record of 100% compliance. The Council does believe, however, that the distinguished Members of the subcommittees, as well as all others who examine this subject matter, must be mindful of the fact that there are many extremely positive benefits associated with part-time teenage employment and that the learning that occurs in the classroom, and the learning that occurs on the job, are two entirely independent experiences that will contribute to a successful adult working life. In closing, I would like to quote once again from the conclusion of the 1989 Educational Testing Service publication, "Earning and Learning," "In recent years, a handful of researchers have found many differences between the learning that occurs in school and in jobs. This research suggests that success in the employment world necessitates both kinds of learning, and that schools would benefit from paying closer attention to these differences. The possibilities are many for schools, employers, and local employment institutions to work together to improve student learning and a student's transition to adulthood." The Council on behalf of its members pledges such cooperation.

Thank you.

Senator Dodd. Ms. Trujillo.

Ms. TRUJILLO. Mr. Chairman and members of your committee, I appreciate the opportunity of being here.

I'd like to introduce myself. As you mentioned, my name is Jackie Trujillo. I started in the restaurant business 38 years ago as a teenage car-hop; if you remember "Happy Days", you know what car-hops do.

I have grown up in the company of Harman Management Corporation and now am the vice chairman and president of operations for that company. We are Harman Management Corporation are a

consulting firm for 242 individual KFC outlets, and we offer accounting, and we offer consulting and franchise rights for all of these individual locations. They are individual corporations, and they are co-owned by the managers. Ninety percent of managers are grown from within our company, so many of those are teenagers who started with us at a very young age who have gone on now to become owners and a very important part of any city.

Also, I serve on the National Restaurant Association board and help to try and get legislation put forth that will help our industry. And we are as an industry very interested in trying to comply with the law.

Today I'd like to introduce to you Linda Hill. I brought her with me because she is a prime example of someone starting out in the industry as a very young person. She started as a teenager and finished high school and went on to 2 years of college. She met her husband in the company. They got married and have a little 2 year-old son, and they are co-owners of a very successful and high-volume store in Alameda, CA. You can feel free to ask her some questions later if you'd like to. I feel she is a prime example of what happens when young people are allowed to come into an organization that offers them opportunity and also a safe place to work and a good place to work.

We are as an industry and Harman Management very interested in trying to make sure that the laws are upheld. We know that there have been problems in the past, but we would like to comply.

One of the things that we have done in Harman Management to try and comply with the law is we are holding classes with all of our managers to teach them what the regulations are and what they have to deal with. We send out newsletters; we put summaries on the back of the work schedules, so that when they are making out a work schedule you can turn this over and make sure that they do not extend any of the hours for the person that they are working.

As a result we have come very close to compliance on the law. We have worked very, very hard. Any fines that we have had in the past have been a very good deterrent for us—not that we are scared of the fine; we just don't want the embarrassment, we don't want to have to worry about it. We want to comply with the regulations. It is very important. We want young people who come to work for us to have a good job, be able to finish their education, and if we can help with that, then that is our main objective.

And of course the possibility of the 10-fold increase in penalties which was established during the 101st Congress seems to aim at the goal of helping us to comply, but they are certainly making employers wary of hiring teens. And let me just give you one statistic that I have. In our company, 1 year ago we had 49 percent more 14 and 15 year-olds working for us than we do today. At that time we had over 400; today we have a little over 200. For 242 units, that is less than one per unit.

So what I'm saying is because we are teaching them the law, we are stressing that this is very important. The regulations are there. You have to comply with this. And it is important for the young people. We're not saying it isn't. We agree with you 100 percent. They should not work over that amount of hours. So as a result,

and because of the threat of the fines, they have just chosen not to hire them.

One of the problems we feel also is that because of the 50 year-old law that is in force that maybe some changes should be made in that law, because when I started 38 years ago, equipment wasn't as safe and workplaces weren't as safe. It took less than $100,000 to open a restaurant, and today it takes $800,000 to $1 million to open one fast-food, as we call it. So a lot of technology has come along to make those things happen.

We think one of the problems that we face—and it has been mentioned before—is that the laws are too different. The regulations conflict from the Federal and the State and the schools. If we could get better compliance that would have one definition, I think we could comply with that better.

We recognize that training and education is very, very important, and we are trying to put systems in place to comply with that.

Some recommendations that we could have is if we could allow 14 and 15 year-olds to work up to 40 hours a week during the school term when school is not in session and during holiday and vacation, that would help us. Allowing 14 to 15 year-olds to work up to four hours per day on Sunday through Thursday during the school term and up to eight hours a day on Friday and Saturday—of course, not going over the 18 hours but to maybe have a little flexibility on the four hours—makes one more hour than they are allowed in a day because getting off at 7:00 at night poses a problem in the middle of a dinner hour—it is very hard to let someone just go when you've got customers waiting out in the lobby, and sometimes they don't understand. So that's what makes you decide that you might hire someone else instead.

Other things include allowing 14 to 15 year-olds to work until 9:00 p.m. on Sunday through Thursday during the school term and until 11:00 p.m. on Friday and Saturday; and of course, on any day, June 1st through Labor Day, they are allowed to work on their vacation time. Allow cooking and baking for 14 and 15 year-olds under certain restrictions where the equipment is safe and when they are in presence of an adult supervisor. Establish a standards board with equipment manufacturers and business users to review and approve the equipment for teen workers. Encourage an internal Department of Labor policy of warning before fines or less serious violations. Require the Department of Labor to print posters with State and Federal regulations indicating which is applicable. And require the Department of Labor to hold a series of educational meetings in each State each year.

We think that regulatory reform is the best approach. We can't afford well-intentioned legislation that would adversely affect job opportunities for teens. We know that especially minority youth have very high unemployment rates, and we certainly have a lot of opportunities for them. For employees who come to work for us, we think we have a lot to offer. Even if it is their first job, we teach them responsibility, we can teach them to become team members and to really grow within our company or with any company and have opportunity for the future as well as finishing their education.

Thank you, Mr. Chairman and members.

[The prepared statement of Ms. Trujillo follows:]

PREPARED STATEMENT OF JACKIE S. TRUJILLO

Mr. Chairman and members of the subcommittees: Thank you for this opportunity to share my views and the views of the National Restaurant Association at this joint hearing on child labor law reform.

My name is Jackie Trujillo. I started my career in the restaurant industry 38 years ago as a teenage car hop at the world's first Kentucky Fried Chicken location in Salt Lake City, UT. Over the last 38 years, I have progressed from car hop to my current position as Vice Chairman and President of Operations for Harman Management Corporation. I also serve on the Executive Committee of the Board of Directors of the National Restaurant Association.

Harman's is the world's first Kentucky Fried Chicken franchisee. It provides franchise rights, accounting and consulting services to 242 individual companies that operate retail KFC outlets. One of Harman's primary functions is to acquire franchise rights from Kentucky Fried Chicken Corporation and other franchisees and then sub-franchise these rights out to the separate companies that operate the individual KFC outlets. Each outlet is organized as a separate corporation with separate boards of directors, accounting records, co-owners, and managers.

Close to 90% of the stores have management teams which are made up of individuals who started on a part-time basis as a cook or counter help at one of the KFC stores within the "Harmon-franchised" stores. The majority of these managers started work as teenagers.

Harmon Management Corporation and the National Restaurant Association share your commitment to improving compliance with federal teen labor regulations. The Department of Labor's (DOL) increased enforcement efforts already appear to have resulted in significantly fewer violations. And the higher civil money penalties established during the 101st Congress along with the criminal penalties currently under consideration seem to aim at the same goal. These penalties, however, have made many businesses wary of hiring teenage workers.

Another important element of improved compliance has not been addressed. Many federal teen labor regulations have not been updated in over 50 years. They are no longer relevant to today's workers or employers, and they fail to reflect the technological advances in equipment safety that have taken place over the past five decades.

The Association has submitted specific recommendations to DOL for regulatory reform. This proposal would bring the regulations up to date, minimize the confusion that employers currently experience when trying to comply with the law and recognize the importance of younger workers' education.

I will share the details of the proposal with you shortly, but I want to emphasize from the outset that improved compliance could best be achieved administratively through regulatory reform. Restrictive legislation that unintentionally reduces job opportunities for teens is not the answer.

Teenage workers should be guaranteed a safe and healthy work environment. They should also have the opportunity to learn, earn and grow in the workplace.

Employment offers teenagers the chance:

—to take that first step into the working world and learn the basics about employment responsibilities;

—to learn what it means to work for and appreciate something, even if it is a nonessential item;

—to save money for school;

—to find an alternative job path for those who are not college-bound;

—to develop a career in a specific industry, and, yes, there *are* meaningful careers to be found in the foodservice industry; and,

—to earn money to supplement family income for those who need it.

These are opportunities that should not be lost to the sensationalism and demagoguery that has so often pervaded the debate over teen labor.

We need to protect the health, welfare *and job opportunities* of our nation's teenagers. But, I know of several major multi-unit operations in the foodservice industry that have recently adopted policies of simply not hiring younger teenagers in light of new and proposed penalties and restrictions. The risks are just too great.

Exorbitant penalties aside, there is a significant risk associated with employing teenagers at a time when all businesses that employ younger workers are being portrayed as "sweatshops," and every child labor violation—even comparatively minor

hours infractions and imperfect recordkeeping—is being equated with "child abuse." Mr. Chairman, these characterizations are nonsense.

Let's be honest. A fast food outlet is just *not* a sweatshop. And, it is absurd to say that a teenager clocking out of work at 7:10 pm. or a paperwork inadequacy is the equivalent of "child abuse." According to the DOL, up to 85% of all violations uncovered during "Operation Child Watch" are hours-related infractions. So to say most violations are comparatively minor is not an exaggeration.

There are some employers whose disregard of the law results in serious violations—and they should be penalized. Their actions jeopardize younger workers and allow opportunists to portray all employers as sweatshop operators and child abusers.

There are also some employers whose confusion over the teen employment regulations results in unintended and less serious infractions. And this problem should also be addressed.

Clarifying teen employment regulations is extremely important to the foodservice industry. Nearly 20 percent of employed teens work in foodservice occupations, and the industry employs almost two of every three teenagers working in a service occupation. In fact, roughly 25% of the industry's hourly workers are in their teens. These numbers speak for themselves. But this issue is important for other reasons as well. Responsible employers want younger workers to have the guarantee of a safe and healthy workplace. We want—and we need—educated workers. And we want teenagers to have the opportunity to work.

In January of 1991 the unemployment rate for teens aged 16–19 was 18.2%—nearly three times higher than the overall rate of unemployment. During the same time period, black teenage unemployment was 36.1%. That is a staggering figure. As a nation, we cannot afford to make bad matters worse for minority youth. We cannot afford a well-intentioned, but misguided, child labor policy that has a chilling effect on employment opportunity. Our approach to this issue has to be well-reasoned.

We need to know why most child labor violations occur, and we need to know how to effectively improve compliance *without* creating more problems. I am happy to have this opportunity to help answer those questions.

Let's look at the significant reasons behind most child labor violations. First, there is a low level of understanding about the requirements of federal child labor regulations. Many operators simply do not have the in-house resources or personnel to research all federal, state and local laws and regulations.

It has been our experience that education and enforcement efforts by state governments have historically been far more visible and effective than those at the federal level. As a result, industry operators believe that if they are complying with state child labor laws, they are doing all they need to do. But the conflicts and discrepancies between state and federal requirements leave operators open to unexpected charges of noncompliance. Let me give you some examples:

Example 1

—Federal law: 14 and 15-year olds cannot work past 7:00 p.m. on a night before school

—Oregon: teens under 16 may not work past 6:00 p.m., unless they have a special work permit—then they can work until 12:00 p.m.

—Maryland: 14 and 15-year olds can work until 8:00 p.m.

—Minnesota: they may work until 9:00 p.m.

—Kansas: 14 and 15-year olds may not work past 10:00 p.m.

—New Mexico: employees under 16 may work until 9:00 p.m.

Example 2

—Federal law: ages 14 and 15 may work 3 hours per day and 18 hours per week while school is in session

—Connecticut: persons under 18 may work 9 hours per day, 6 days per week, 48 hours per week

—Illinois: teens under 16 may work 3 hours per day, 5 days per week, plus 8 hours on Saturday or Sunday for a maximum of 23 hours per week

—Iowa: 14 and 15-year olds may work 4 hours per day and 28 hours per week

Example 3

—Federal law: 14 and 15-year olds may start work at 7:00 a.m. during the school year

—Mississippi: persons under 16 may begin work at 6:00 a.m.

—Rhode Island: employees under 16 can start work at 6:00 a.m.

—Montana: there are no restrictions in this regard

—California: teens under 18 may begin work at 5:00 a.m.

In addition to the confusion that results from these conflicting federal and state teen labor requirements, we should consider the inconsistent enforcement of federal regulations. A prime example is that holidays that occur during the school year are in some areas of the country subject to the 7:00 p.m. school year curfew, and in other areas considered to be "non-school" periods and are therefore subject to the 9:00 p.m. curfew. Regional enforcement discretion that leads to confusion and discrepancies clearly compounds the problem for employers trying to comply with regulations. These contradictions should be eliminated.

Finally, let's remember that we are dealing with 50-year old regulations, many of which just do not make sense in 1991. The world has changed a great deal over the past 50 years. Society has changed and the workplace has changed. I suggest the regulations should be changed, too.

In recent years a premium has been placed—and rightly so—on the education and training of our nation's youth. I mentioned earlier that employers recognize the importance of education. Many of us have programs in place to assist with our workers' education needs, and we all contribute to their training. Education and work need not be competitive notions. They can, in fact, fit together.

Now I would like to share the specifics of the Association's proposal for regulatory reform with you.

1. Allow 14 and 15-year olds to work up to 40 hours per week during the school term when school is not in session that week due to a holiday/vacation period. Allow 14 and 15-year olds to work up to 24 hours per week during the school term when school is in session for 4 days or less that week due to a holiday/vacation period.

2. Allow 14 and 15-year olds to work up to 4 hours per day on Sunday through Thursday during the school term, and up to 8 hours per day on Friday and Saturday during the school term.

3. Allow 14 and 15-year olds to work until 9 p.m. on Sunday through Thursday during the school term, and until 11 p.m. on Friday and Saturday during the school term and on any day June 1-Labor Day.

4. Allow cooking and baking for 14 and 15-year olds under certain restrictions, such as in the presence of adult supervisors.

5. Establish a "standards board" with equipment manufacturers and business users to review and approve use of equipment for teen workers.

6. Encourage an internal DOL policy of warnings before fines for less serious violations.

7. Require DOL to print posters with state and federal regulations indicating which is applicable.

8. Require DOL to hold a series of educational meetings in each state every year.

The first three recommendations were constructed to put younger workers' education first by focusing work hours on times when school is not in session and on days not followed by school days. The industry proposes allowing 14 and 15-year olds to work more hours per week during school year vacation periods. These employees would only be allowed to work one more hour per day and two hours later in the evening on days followed by a school day. And even these modest adjustments would remain subject to the current cap on the total number of hours teenagers can work per week when school is actually in session. The proposal includes more hours per day and later hours on days not followed by school days—Friday and Saturday—and during the summer months.

Allowing teens to work later "weekend" hours will also assist restaurateurs in staffing their operations during these typically high-traffic periods. Current regulations require that 14 and 15-year olds stop work at 7:00 pm.—right in the middle of the busy dinner hour. This is a direct disincentive for employers to hire teens.

The next two recommendations—allowing cooking and baking subject to certain restrictions and establishing an "equipment standards board"—aim at bringing federal regulations into line with reality. Technological advances over the past 50 years in equipment safety have made restaurant kitchens much safer places to work. Teenagers are already permitted to cook at lunch counters and in other "front-of-the-house" situations. There is no difference in allowing them to perform the same tasks in kitchens, especially with adult supervision.

And establishing an equipment review mechanism at DOL will for the first time give the department the opportunity to base its decisions with regard to hazardous orders on some body of evidence. For example, HO-10, which prohibits teenagers from using any power driven equipment has no basis in fact. There is no evidence to indicate the equipment is unsafe. No research was conducted on injury incidence before DOL's decision. Interestingly, HO-10 was originally established to prevent

teenagers from using the guillotine-cutters, snout-pullers and jaw-pullers found in the meat processing plants of yesteryear—not from using meat slicers to prepare club sandwiches—but now the rules are being applied to restaurants.

The added advantage of a standards review board is that it provides a direct incentive for equipment manufacturers to produce the safest possible product. Restaurateurs will only buy the equipment their workers are permitted to use. To meet market demands, the manufacturers will have to meet the safety standards set by the board.

Finally, the last three suggestions are designed to ensure that employers understand the regulations. They need to be better educated. Let's work to eliminate confusion and to improve compliance.

In summary, Mr. Chairman, an honest hard look at the whole picture is in order. In fact, it is essential. We have an opportunity here to work together for our nation's youth. They deserve our best effort. The foodservice industry is prepared to make that effort. Our goal should be to completely eliminate serious child labor violations, and to effectively address the vast majority of violations, which are more technical in nature. And let's keep three things in mind: health, welfare and opportunity for America's young adults.

Again, thank you Mr. Chairman and members of the subcommittees. I would be happy to answer any questions.

Senator DODD. Thank you, Ms. Trujillo.

I would just say in response to you—and I don't think you would disagree—that we can't afford to have 166,000 kids out there where child labor laws are being violated, either. We talk about this Nation being strong, with a well-educated population, maximizing their skills so they can be in the best possible position to be providers for themselves and good parents and employees in their adult years. I think someone cited the statistic the other day that over 75 percent of all jobs by the middle of the next decade in this country will require at least a high school education, so that pool of job opportunities that is available to people who don't have the proper skills is just shrinking by the hour.

When I look at what is happening here in terms of educational performance in some of these areas, it is disturbing to me, to put it mildly.

I appreciate your anxiousness about having us take a look at some other areas in the law, and I think that is certainly a legitimate request. I must tell you, though, that I am rather shocked to hear you asking for additional hours on school nights. I appreciate the difficulty in the business, but to have a 14 year-old out working at 9:00 on a school night doesn't seem desirable—I don't claim to be an expert in this area, but common sense would tell me—and I don't know old your children are, Mr. Coleman—but on a Sunday night, I presume as a parent that that would make you a little anxious about academic performance.

So having them out later, when we see the performance levels in just one area here, in the English courses, I'm worried that what you are suggesting is that we go in the opposite direction of what we have identified here as a problem.

Maybe you could comment on that.

Ms. TRUJILLO. OK, Mr. Chairman. What we're alluding to is that four hours a day would be more helpful than three hours a day. It was a suggestion that it could be extended to 9:00 at night. It is 7:00 now, and that is a little bit early in order to provide a job for the 14 or 15 year-olds because we need them later than that.

Maybe the answer is 8:00. I don't know. Maybe 9:00 is too late. But 7:00 is a little too early. And we are saying is it a possibility

that they could work a little bit later because that would fill some of our needs. What we are looking at is whether we will have an opportunity to give them a job with the laws that way and whether we can comply with that.

Senator DODD. What is the average wage?

Ms. TRUJILLO. Whatever the minimum wage is; that's when they would start, at $4.25.

Senator DODD. What is the average wage of a 14 or 15 year-old who works in the restaurant business?

Ms. TRUJILLO. I know in California it is $4.25 because that's the minimum wage, and that's what we pay.

Senator DODD. So even at 15, it might be a bit above that, but you'd start them at that area.

Ms. TRUJILLO. Yes.

Senator DODD. Now, are you really going to suggest to me that you're actually probably not going to hire those people and hire an adult—that someone is going to take a job at those wages?

Ms. TRUJILLO. Could I just ask Linda to comment?

Senator DODD. Yes.

Ms. HILL. Well, in California—that's where I work—I don't hire any 14 and 15 year-olds. I only hire 16, 17 or 18 year-olds. And yes, 18 year-olds are willing to work for $4.25 because the job market in California is really, really low. So they will come in for an entry level job and try to work themselves up to the position that I have now, which is manager/co-owner.

Senator DODD. So you're telling me that you would not hire the 14 and 15 year-olds?

Ms. HILL. I do not have any 14 or 15 year-olds.

Senator DODD. Why don't you hire them?

Ms. HILL. Because it is too rigid—it is 4:00 to 7:00, and it is only 18 hours per week. I do not mind working any kid 20 hours. That's what I have to work now because of the work permits that California has mandated on me; even 16 and 17 year-olds, I can work them only 4 hours a day and 20 hours a week—that's it. But with the 14 and 15 year-olds, they can't go back in the back; they have to get off by 7:00, and my dinner rush isn't in until 8:00. So I have to let them go.

Senator DODD. And you think that's a bad thing?

Ms. HILL. No, I am not saying it is a bad thing. But what is an hour? They stay. I see 14 and 15 year-olds out in the street at that time. They are not in the house at 8:00. They are going to the movies. They are at ball games. Ball games don't even end until 8:00 in California. They are out. Why not have something constructive to do——

Senator DODD. Well, they are not going to a ball game every week, not at the prices I see being charged for tickets. If they are, they've got another job, not working at $4.50 an hour.

Ms. HILL. Yes, they are doing other things. They are either going to the movies, going to games, or they are practicing. Even practices don't get off at 7:00. They are there until 7:30, 8:00 at night.

Senator DODD. Well, I understand that, and I'm not suggesting that it is necessarily a good thing. And I don't know if anyone is suggesting that we ought to regulate little leagues out of here or ball games; that's not my job. But I do have a job to take a look at

what happens in the workplace. And I don't like to see kids out on the streets who should be in school and studying and so forth. And I realize that's not the way things ought to be run, but I can't control all of that. Not that I can control all of this, either, but I try to at least have some semblance where people who are knowledgeable in this area, people who work in our school systems, can report to us and tell us what is happening out there in terms of these young people's abilities to perform educationally.

I respect your needs as an employer and the demands that are on you. What we are trying to do is strike a balance here to make sure that the hours that these people work and the conditions under which they work are reasonable. Now, obviously there are some 14 year-olds who can do the work of a 30 year-old—there are some 30 year-olds who can't do the work of a 12 year-old. But we can't write laws that way. We have to take what we generally accept is the way of providing for the safety of these young people. So I am sympathetic to your particular needs in those areas, but I must also tell you that I am concerned when I see us talking about going in the opposite direction. We are placing the emphasis on academic performance.

I appreciate as well your comments, Ms. Trujillo, about the confusion of State and local or Federal. But that is the case in almost every area. We are not unique in that regard. I don't know if I am hearing you calling for Federal preemption in these areas—I guess I should ask legal counsel. Can I read into this that I might get the support of the National Restaurant Association for our family and medical leave bill?

Mr. COLEMAN. Depending on what else is in the bill, I think we'd stand behind you on that. The issue that goes to is that I've seen over and over and over situations, especially with the chains that operate in many States and sometimes with some of them, all of the States, one mile across the border between Kentucky and Indiana is going to make a difference in the State laws, and as you know there is no Federal preemption, and whatever is more restrictive applies in the area of child labor. And over and over I have seen violations of State law because they thought they were doing a good job of complying with Federal, and vice versa. They are not always necessarily more strict at the State level than at the Federal. There have been countless cases where you run into that.

Senator DODD. I appreciate that, and I think it would make some sense to try and have some uniformity with them. But again that is not unique to this particular area of the law.

Mr. COLEMAN. No, no.

Senator DODD. You face that in health and safety standards and payroll tax deductions and so forth.

Mr. COLEMAN. That's correct, from locality to locality—an employer who is on the border faces all of those difficulties.

If I might comment very briefly on the 7:00 p.m. limit, I didn't highlight it, but in the testimony that I submitted we had proposed or we had suggested that we would favor a movement of the 7:00 p.m. limit to 9:00 p.m. You have to understand in that regulation that pertains to 14 and 15 year-olds, there are numerous hours restrictions. They are limited to three per day when school is in session; eight per day when school is not in session; 18 per week when

school is in session, and 40 when school is not in session. And then on top of that, there is a prohibition that says they can't work before 7:00 a.m. or after 7:00 p.m. Only in the summer months, June, July and August, is the 7:00 p.m. extended to 9:00 p.m.

Senator DODD. And weekends as well.

Mr. COLEMAN. No.

Senator DODD. You just said 11:00 p.m.

Mr. COLEMAN. No. It is only the summer months.

Senator DODD. Is that what you are recommending, or——

Ms. TRUJILLO. That is what I was recommending, on weekends that it be——

Senator DODD. So 11:00 on Friday night and 11:00 on Saturday night.

Ms. TRUJILLO. Yes.

Mr. COLEMAN. Currently during the school year, Friday night, Saturday night, if it is not a summer month it remains 7:00 p.m. And we feel that it is just unrealistic to think that kids who are 14 or 15 who are working get off at 7:00 and go straight home and open the books. In an ideal world that might happen, but given the other restrictions such as a three-hour limit per day limit, we don't see any difference between someone working from 3:00 p.m. to 6:00 p.m. and then doing studying at night, and someone who may want to do it in the afternoon and then come in and work from 6:00 until 9:00 p.m. And I can tell you from experience—I can't relate them to those charts—but the overwhelming majority of violations of child labor laws in the restaurant industry come single-handedly from violating the 7:00 p.m. limit.

Senator DODD. I'm not surprised at that.

Let me ask you about the fines—and again, I am not terribly shocked that you tell me that you don't like the increase in penalties or fines. But aren't you disturbed as well about the average actual fine even when the penalty was $1,000? I mean, realistically—let's put aside the well-intentioned employer—and that is where I presume the overwhelming majority are—but there are occasionally other people who aren't; they are unscrupulous. You see them, you deal with them. I don't need to tell you about them. He's saying, look, average fine $160—and I'm not talking about the guy who says I'm going to have you work an extra 15 or 20 minutes tonight and gets caught because he goes beyond 7:00 p.m., but someone who is putting a kid in a tough situation. And your lawyer says, "look, I'm not advising you to do it, but the fact of the matter is if you get caught it is going to cost you $160 on the average."

What sort of incentive is built into that? I mean, if you know you're only going to pay $160, the incentive is almost to break the law.

Mr. COLEMAN. Well, I'd first like to say that I don't think most employers, even the scrupulous ones and the ones that are well-intended, know in advance what they are going to be fined. The way the law is written, there is a statutory maximum—there was until the end of last year—of $1,000, with full discretion vested in the Department of Labor's hands to decide what the fine level is. And they don't ordinarily publish in advance. If you are very much in-

volved in it you can discern a pattern and see what fines are coming in at.

Senator DODD. Well, it's a pretty safe bet when you know that just a fraction of the people who are involved to inspect in the Department of Labor even go out and do it—until that sweep last year. I forget the percentage, but it is tiny, less than 1.5 percent of their time in the enforcement division is spent on child labor. That's not what you'd call a juggernaut of a police force.

Mr. COLEMAN. I can tell you, though, that give last year's intensive effort and the publicity associated with it, the increase at the end of the year of the civil fine to a $10,000 maximum—and that is per violation—the use of injunctive suits—there are a number of injunctive suits now pending at the Department of Labor—that has not gone unnoticed in the industry, certainly not with the members of this association, and I can assure you that none of them view a $10,000 civil fine as merely a cost of doing business.

Senator DODD. No; I wouldn't assume so.

Ms. TRUJILLO. Mr. Chairman.

Senator DODD. Yes.

Ms. TRUJILLO. There have been several—well, not several instances—we only had six of our units even visited. But we had one case that I'd like to talk about because I think as you are looking at some of these fines, yes, some of them might be severe, and some of them are a matter of judgment, and they are being fined for something that isn't quite so severe.

In one of our units the regulators came in. An employee had been hired 1 day before they reached the year of 14. They were sent to an orientation meeting. The manager thought, well, I can send them to a meeting, and I won't put them on the job until they get to be 14 years of age. So they went to an orientation meeting, sat there, learned about their job, learned the safety and sanitation, came back when they were 14 and went to work. The store was fined $800 for that 1 day.

Senator DODD. Again, you're preaching to the choir when you tell me that. There are cases out there that are dreadful and stupid.

Ms. TRUJILLO. Oh, yes, and there are others. And I think the ones that have really abused it, yes, they deserve the fine. So we agree with that; we're just saying that now that it has gone to $10,000 maximum, it is very evident in people's minds. They didn't like the $1,000, and they are certainly not going to like the $10,000. So it scares them. And that is what Linda is telling us, is that she is afraid; she doesn't want to have to pay that, because——

Senator DODD. Linda will never violate the law.

Ms. TRUJILLO. No, she won't, and that's right. But she can't be there very hour of the day, and she has an assistant manager. What prevents the assistant manager from really getting busy and not understanding and then going ahead and violating—and she has to pay for it. That's what we are faced with, and yet we've got to find some way to do it.

Senator DODD. I agree, and that is the difficult burden.

Ms. TRUJILLO. Yes, and we want to do that; we want to be good employers.

Senator DODD. I don't question at all the good will of the overwhelming majority of people. Unfortunately, if the laws were writ-

ten for people who obey the law, we wouldn't have any of them. Regrettably, there are those who unfortunately abuse the law and hurt you people.

People come up here and say, "That Congress, they're just killing us when they do these kinds of things." But sometimes it is the people in your own business who kill you because they are the ones who require and necessitate people doing things. It is tragic, but it is often the member of the association who abuses the privilege of doing business.

Mr. COLEMAN. Just one comment in response to that, and you alluded to it yourself. That is, Congress has got to be mindful when it is passing a law that is going to apply equally across-the-board, not to draft something that is intended to deal with that small minority that unfortunately is going to hit everybody else, because we are not kidding when we say most big, legitimate, reputable employers are going to look at this kind of law and see what they can do to live without teenage employees. Many of them are living without them under 16, just as this witness has testified to. I could see some of them taking a hard look—I don't know whether they'll be able to do it or not—but I can see them taking a hard look if this legislation were passed at whether they could live without teenage employees under the age of 18. We can debate whether they can or not, given the market, but it is a tight market now, and it ebbs and flows.

What I'd like to see remembered in this legislation if it is going to move anywhere is that kids can't stay kids forever. And I'm not suggesting that 8 and 10 and 12 year-old kids ought to be out working, but at 18 years old all limits are off. You can join the army—and I think we had 18 year-olds die for the country recently. There has to be a transition of some sort. They cannot be kept kids until the last day they are 17 and then just turn into adults, and boom, throw them into the work force.

Senator DODD. But there are arbitrary times chosen for drivers' licenses and other things; it is the only way society can function. And imposing criminal penalties doesn't hit everybody. It has got to be willful, it has got to be intentional. That does not affect the good businessman out there. In fact, I would assume the good businessman would be in here saying, "Put the wood to them. Anyone who intentionally places a child in a precarious and dangerous situation ought to have the book thrown at them. That doesn't affect me because I don't willfully and intentionally place a child in that situation." So don't tell me those affect everybody, criminal penalties. They affect the criminal.

Mr. COLEMAN. I would suggest that the way the statute is written, there is no definition of what is willful. It doesn't mention the word "intentional"——

Senator DODD. Oh, come now, Mr. Coleman. You are a lawyer. Courts decide that, juries decide that. Don't tell me that it affects you as a businessman if I impose a criminal penalty for the willful, intentional violation of the law. That doesn't affect you.

Mr. COLEMAN. I think there needs to be a statutory definition. If you are proposing to put an executive of a corporation on trial for a criminal violation that was allegedly committed 2,000 miles away in another unit, there needs to be some precise definition.

Senator DODD. There are pretty good standards of what is willful conduct, and plenty of case law and so forth over the years as to what falls into that category. With all due respect, you could make that complaint about every criminal statute you want up here that comes down the road. If that is going to be the argument, then we're not really talking to one another here.

I accept your argument that sometimes there are things we impose that do impose a cost on everyone; but that is certainly not true where you are talking about willful violation of the law. But I appreciate your comments on the other points.

I thank you all for being here today. It is helpful to have your testimony on this, and obviously as we move through the process here, the suggestions and ideas you raise are worthwhile, and we will consider them.

We thank you.

Mr. COLEMAN. Thank you.

Ms. TRUJILLO. Thank you.

Senator DODD. Senator Durenberger and Senator Hatch have statements they would like to include in the record, and we'll keep the record open for 2 weeks for submission of additional statements and questions.

[The prepared statements of Senators Hatch, Jeffords, Durenberger, and additional material submitted for the record follow:]

PREPARED STATEMENT OF SENATOR HATCH

Mr. Chairman, the benefits of work are universally accepted. We know that work helps young people develop the skills, maturity, and values they will need over the course of their adult lives. I do not believer government should deny the young people of our nation the right to broaden their knowledge and skills by means of healthy, safe, and productive employment.

Just recently, I learned the story of a young teenager from Utah, Molly Jensen. A young employee of a Kentucky Fried Chicken restaurant in Salt Lake City, she learned a variety of skills and good work habits. She enjoyed her job, and her mother noted how much her self esteem had improved. Her grades in school improved too—up a whole grade point. Unfortunately, her employment came to an end when her employer was cited for a minor child labor violation.

Molly was lucky, however. She at least had a supportive family to encourage her and explain that this set-back was not her fault. Some American teenagers are not that lucky.

During a 1988 hearing before the House Select Committee on Children, Families and Youth, John A. Calhoun, Executive Director of the National Crime Prevention Council, testified that the problem common to youth who turn to crime is "a terrible aloneness on the part of these children . . . they are not bound to school, community, sometimes not to family or even themselves."

I am not suggesting that bringing the child labor laws up to date would, by itself, solve the problems of juvenile crime or gang membership. But, I do note the recent press release from the National Center for Health Statistics in which Secretary Sullivan states that, "during every 100 hours on our streets, we lose more young men than were killed in 100 hours of ground war in the Persian Gulf."

A study conducted for the National Crime Prevention Council indicated that there is an average of at least one teen murder in Detroit each week.

We are missing the boat, Mr. Chairman, if we write off employment as a constructive means of reaching many American teenagers.

But, today's child labor laws were written for youth who are now eligible for Social Security. These laws are two generations removed from reality. What do teenagers do who are forced—by law—to punch out by 7:00 pm.? Unless they have good parental support, they most likely do not go immediately home and hit the books. And, as in the case of Molly Jensen, who are we in government to second guess her parents?

Mr. Chairman, I agree that the child care labor laws should be enforced vigorously and thoroughly. Employers should never be permitted to use "oppressive child

labor." We are well past the time in this country when the employment of children in dangerous jobs for 12 hour days was tolerated. But, I also believe that it is time we updated these laws that restrict opportunity for our youth.

I have many more examples, Mr. Chairman, of teenagers who have become victims not of child labor, but of child labor *laws*. They are victims of a government—no matter how well-intentioned—that is protecting them out of opportunities for learning and earning, a government that is indirectly teaching them that initiative doesn't pay, and a government that abets dependency by making decisions for them.

This is the wrong message, Mr. Chairman. Like Molly Jensen's mother, we ought to be letting our youth spread their wings. We ought to be giving them the chance to learn and to develop the sense of self esteem that is so important to growing up in today's society.

PREPARED STATEMENT OF SENATOR JEFFORDS

Mr. Chairman, ladies and gentlemen, good morning.

I am pleased to be here this morning continuing the Congressional effort to eliminate child labor abuses from American society. Both the Senate and the House of Representatives held extensive and informative hearings on this issue last year. I commend the hearing reports from these to the Members. Perhaps we can incorporate them by reference in this proceeding without the necessity of reproducing them for the record.

Our child labor laws date back over 50 years. They represent a long-standing American consensus and commitment to placing priority on the health, safety and education of our school-aged children, rather than focusing on them as potential members of the workforce. While I firmly believe that there are very few employers who set out to exploit or abuse underage workers, the Department of Labor sweeps from last year provide compelling evidence that such abuses do occur with shocking frequency.

In virtually every state of the Union there are employers hiring young workers illegally to perform sometimes hazardous jobs for excessive hours. The damage which such practices can do to these youngsters, both physically and educationally, could have a drastic impact on our nation well into the next century. Of particular concern to me in this regard is the possibility that these teenagers will be so drawn to making a few extra dollars that they will ignore their studies or drop out of school altogether to pursue jobs on a full time basis. Because the world is becoming an ever more technical place, a well-educated populace is essential if America is to keep pace with the other industrial powers. Thus, keeping school-aged children in school is of the utmost importance for our future.

Certainly, cracking down on any increasing trend toward child labor law violations is a must. The Department of Labor launched its nation-wide initiative on this last year and I anticipate that Secretary Martin will continue to give this matter the highest possible priority. The Department deserves our cooperation and assistance in continuing that effort.

Finally, however, I do want to note that there is a qualitative difference between the vast majority of the violations found in the child labor sweeps (i.e., hours violations) and those situations in which underage workers are killed or maimed while working illegally at hazardous occupations. We should not paint all employers with the same brush. Certainly we should come down with both feet on those employers who willfully or repeatedly flout the law and exploit our children. However, we must also recognize and commend those employers who are not only providing work opportunities for young workers, but also are instituting training programs, scholarships and other education support and incentives.

Perhaps what is required is that we examine the 1930's child labor laws in the context of how they operate in the 1990's. Are there changes in the way our society operates in this day and age which should impact on these standards? In this way we can assure that they are not serving as unreasonable barriers to the efforts of teenagers to earn much needed funds, and particularly as to funds required for the ever increasing costs of a college education in a time of shrinking availability of financial aid.

Mr. Chairman, I do thank you for your continued efforts in the area of child labor and for holding today's hearing. I look forward to the testimony of our witnesses.

PREPARED STATEMENT OF SENATOR DURENBERGER

Mr. Chairman, last year the Department of Labor began operation "strike force" to search out violators of child labor laws and to toughen enforcement action. The findings of this action were shocking. As William Brooks testified before the House

Employment and Housing Subcommittee, violations were found in roughly half of the 4,000 firms that they had investigated up to that time. All in all, they found more than 2,250 14-17 year olds working in hazardous occupations, about 500 children working below the legal age of 14, and more than 13,000 14 and 15 year olds working later or longer than the legal limit. This type of exploitation of children is simply deplorable.

As we try and find the answers to improving the education system here in this country, we cannot ignore these broad violations of law that affect a child's education in the classroom. So often the focus of testimony before this Committee is on the different demands being placed on the teacher's time or on the social demands in general on the school. But we should not lose sight of different demands we are placing on children themselves. A child simply can't be expected to participate fully in school after working 30-40 hours a week or working to midnight every night.

I don't want to leave the impression that working part-time is necessarily a bad thing. A part-time job can provide necessary income for many children and their families and it can build skills and experience not always available in the classroom. The child labor laws were put in place to protect against abuse and exploitation of children during a time when they should be focusing on their own development and education. The magnitude of the abuse of these laws shows the need for much tougher enforcement of the laws. In addition to strong enforcement, I believe we must move to develop a proper balance between our education and youth employment policies in this country.

I commend the Administration for the leadership they have taken in this area, for their vigorous efforts to expose those organizations in violation of the law, and the thousands of businesses they have assessed penalties to over the past year. I also believe we made important steps forward last year by raising the civil penalties for child labor violations from $1,000 to $10,000.

I look forward to hearing from the Administration about the progress they have made in this area and from the other witnesses here today on the recommendations for further action.

PREPARED STATEMENT OF MARY BAUER

I am Mary Bauer, an attorney with the Virginia Farmworkers Legal Assistance Project. We appreciate the opportunity to submit this testimony on the need for changes in our nation's child labor laws to enhance much-needed protections for children working in the fields. We strongly support Senate Bill 600, which will provide needed safeguards for the many children working in agriculture. Specifically, the bill would provide protection for minors under the age of 14 who are migrant or seasonal farmworkers. Currently, children who are but twelve and thirteen years of age labor in the most dangerous occupation of all—agriculture. Children of that age cannot work legally in virtually any other industry. Senate Bill 600 would protect young children from the dangers of farm machinery and toxic pesticides, from long hours and back-breaking labor, and would give those children an opportunity for education and hope.

Children laboring in Virginia' farms and orchards desperately need the protections that Senate Bill 600 will grant them. Virginia's laws protecting child labor, like the current laws, exempt twelve and thirteen year-olds from the protection afforded to children in virtually every other type of employment. Children in agriculture are presently excluded from the laws whose sole purpose is to ensure the good health and educational opportunities of all children in this nation.

This exclusion cannot be justified. Children working on farms are engaged in the most dangerous occupation in the United States today. The second-most dangerous occupation, mining, has seen a significant decrease in job-related fatalities in recent years. By contrast, in agriculture, job-related fatalities are on the rise. *Agriculture at Risk: A Report to the Nation* by the National Coalition for Agricultural Safety and Health, 1989.

Health Hazards for Children in Agricultural Labor

In the arena of agricultural labor, child labor is remarkably unregulated both at state and federal level. Yet it is generally agreed upon by experts in the respective areas that agricultural child labor is detrimental to children's health and education.

"Agricultural is the most dangerous occupation in United States today . . . It accounts for the highest rate of workplace deaths and injuries nationwide." Migrant Health Clinical Supplement, May/June 1990. Agricultural labor is physically grueling. Farmworker children constantly stoop and bend to pick vegetables or fruit, and then carry the heavy buckets of the fruits and vegetables they picked to dump into trucks parked at the edge of fields. While working in the fields, farmworker chil-

dren are exposed for long hours to the sun, intense heat and humidity, flies, mosquitoes and other insects, as well as the many toxic pesticides commonly used in agriculture.

Aside from the immediate ill effects of exposure to toxic pesticides, medical experts are not certain of the long-term impact such exposure has on developing bodied, particularly in their reproductive systems. Numerous studies have found that there is greater risk of developing cancer if exposed to carcinogens earlier, rather than later. This is so because cells are dividing rapidly during childhood, and are more susceptible to carcinogens. Studies have also found that children are frequently more susceptible than adults to neurotoxins. Studies have found that the young of various species retain a greater portion of a given dose of certain toxins than adults, because gastrointestinal absorption is increased and elimination is decreased. Young bodies are not capable of segregating toxins from the target organs. Thus, pesticide exposure is considered much more dangerous for children than for adults. *Intolerable Risks: Pesticides in our Children's Food* A report by the National Resources Defense Council, February 27, 1989, p. 5.

Injuries to children in the fields are not uncommon. And they are more often than not undocumented. Nevertheless, the available statistics are frightening. Dr. Frederick Rivara states that "Nearly 300 children and adolescents dies each year from farm injuries, and 23,500 suffer not-fatal trauma . . . More than half [of those killed in agriculture] die without ever reaching a physician; an additional 19.1 percent die in transit to a hospital and only 7.4 percent live long enough to receive inpatient care. Rivara, F.P. 1985, "Fatal and Nonfatal Farm Injuries to Children and Adolescents in the United States," *Pediatrics* 76:567–73.

About one in every six people injured on a farm is a child, at least 23,500 each year. *Boston Globe*, April 26, 1990. The National Safety Council has found that in agriculture 5 to 14 year olds have the highest rate of injury. In addition, hired workers on farms have higher rates of injury than family members. *Accident Facts*, National Safety Council, 1989, p. 35.

At twelve and thirteen years old children are still physically immature. Children at this age lack the strength and physical development to tolerate repetitive stoop labor and heavy lifting. Medical problems resulting from the lack of field sanitation (toilets, handwashing facilities, and drinking water) are a particular problem for children, owing to their higher susceptibility to infectious disease. Lack of compliance with field sanitation standards remains a grave problem in Virginia and other states.

The Threat to Education for Children in Agricultural Labor

Farmworker children frequently suffer in their education, both in their ability to learn and in the extraordinarily high drop-out rates. The drop-out rate among farmworker children is 50–60% nationwide. Martin, Philip L. *Harvest of Confusion: Migrant Workers in U.S. Agriculture*, Boulder, Co: Westview Press, 1988.

Children in agriculture are engaged in an occupation that so drains their ability to achieve a decent education that the United States Congress and many state legislatures have made special appropriations for the education of migrant farmworker children. Absentee rates for farmworkers children are astounding. Ruth Brown, a health educator teaching fifth and sixth grade children on the Eastern Shore of Virginia has noted "an incredible drop in attendance" over the past few years in health education session in the Accomack County School District. (First grade—57% attendance; fifth/sixth grade—19% attendance. When Ms. Brown asked the children in her class how many worked, more than half raised their hands. At least two children said that they worked until 11:30 at night on a potato grader. [Personal communication from Ruth Brown, Health Educator, DelMarVa Rural Ministries, Nassawadox, Virginia, September 11, 1990.]

The ability of students to concentrate on their school work is seriously impaired by long hours of strenuous work outside of school hours. Children working in labor-intensive crops have little time for homework, and they suffer from chronic fatigue when they are present in school.

On a cucumber farm in Virginia, a twelve year old child stoops over to pick cucumbers off a vine that trails along the ground. If it rained she might be standing and kneeling in several inches of water. Perhaps it is 95 degrees and mosquitoes and flies are swarming around her, attracted to the sweat on her face. Pesticide residue on her hands is wiped on her face when she wipes off the sweat. When the bucket is filled it weights 25 to 30 pounds. She will lift it to her shoulder, run down the field 50 or 100 yards or more, lift the bucket over her head to dump it in a truck, and then return to fill another bucket. She has to move fast because her parents will get paid by the bucket. She will repeat this all day long, perhaps 100 times. She will

work the same hours as the adults in summer, sometimes 10 or 12 hours a day. When school is in session, if she attends at all, she will go to work in the fields as soon as she gets home, and will stay in the fields until dark. She may even have to put in a few hours in the morning before school. On weekends, she will work all day alongside the adults. This is reality for many twelve and thirteen-year-old children. They may still be in elementary school, but they work long and hard on farms across Virginia and this nation.

The hazard posed to children's academic performance and their potential for receiving adequate education is tremendously increased by demanding labor during the school year. This situation also prevents farmworker children from taking full advantage of the opportunities additional Federal and state funding is intended to provide them.

Elimination of Exceptions for Children in Agricultural Labor

Federal and many state child labor laws treat children in agriculture differently from other children. The myth that agriculture is different must be put to rest, and our children laboring in agriculture must be protected from the hazards to which they are currently exposed. Twelve and thirteen-year-old children are protected from having to labor in virtually every other industry besides agriculture. We owe it to those children to protect them from the many dangers to childhood of agricultural labor.

Farmwork is not fun. Some may have visions of Huck Finn picking a few quarts of berries and then eating them while jumping in to the cool waters of a nearby creek. That is far from the reality for migrant children. The physical labor farmworker children perform is grueling, and they perform this work sweating, swatting at insects, bending and lifting. For farmworker children, the fields are the sweatshops of agriculture.

PREPARED STATEMENT OF COMMISSIONER RAYMOND L. BRAMUCCI, NEW JERSEY DEPARTMENT OF LABOR

Thank you Chairman Metzenbaum and Committee Members for addressing this timely and critical issue of improved enforcement of child labor laws throughout the nation. I want to commend Senators Metzenbaum, Dodd, Kennedy, and Jeffords for sponsoring these amendments to the Fair Labor Standards Act, and for taking the lead in filling the void that some states have in their enforcement capabilities.

We all understand the substance of this bill—to strengthen the enforcement scheme for child labor law violations and also provide basic data on child labor practices. Today, I would like to focus my remarks on three themes:

—my strong support of the bill's intent,

—how New Jersey's labor statute anticipates much of your amendment's intent, and

—the framing of certain technical considerations that may strengthen the national impact of the amendments.

As Commissioner of Labor in the State of New Jersey, where our child labor labs are among the toughest in the nation, I unequivocally endorse this bill and any legislation that moves positively towards the broader protection of the health, safety, and employment conditions of minors. We all recognize that the employment of minors in occupations or pursuits where they are subject to exploitation is totally contrary to public policy. Furthermore, such exploitative employment often impedes the educational progress of minors, a detriment our society can ill afford. It is time that our nation establishes clear, demanding standard for all aspects of child labor laws. These amendments will go a long way in attaining that end.

Let me now give you some examples of how this bill compares with existing enforcement practices in my State:

1. The bill calls for criminal sanctions for willful violations of child labor laws that result in the death of a child and willful violations that result in serious bodily injury to a child. In New Jersey, our criminal sanctions extend beyond willful violations to any violations such as injury, death, violation of hours of work or involvement in prohibited occupations. It is the practice of the New Jersey Department of Labor to prosecute any employer who employs a minor in a prohibited occupation which results in injury or death to a minor. Though the new federal standards are not a comprehensive as New Jersey's, they do impose more severe penalties.

2. This bill continues to recognize sub-minimum youth training wages. New Jersey has no such provision under its laws. New Jersey does not permit payment of wages to minors below the minimum wage in covered occupations.

3. This bill does, however, go beyond the state's law in that employers who willfully and repeatedly violate Federal child labor laws would be ineligible for Federal

grants, loans, or contracts for five years. This provision certainly has merit and will be a matter which I will pursue at the state level.

4. In the course of child labor law investigations, we provide school districts with the names, addresses, and nature of alleged violations of employers who violate our act. This amendment rises to this threshold and goes one step further by requiring a written compilation.

5. The New Jersey Child Labor Law enacted in 1940 has required certification of employment for minors under the age of 18 regardless of whether they possess a high school diploma or not. Further, an age certificate may be required by an employer of a minor who is between the ages 18 and 21. This certificate is obtained from the issuing officer and protects the employer against the possibility of age misrepresentation. In that this bill simply requires certificates of employment for those minors under age 18 who do not have a high school diploma, New Jersey's current provisions are more comprehensive.

6. New Jersey's law permits 12 and 13 year olds with certificates of employment to work in migrant and seasonal agricultural activities. The bill prohibits minors under the age of 14 from migrant and seasonal agricultural work.

7. New Jersey's laws have for years exceeded federal standards for occupational prohibitions and hours of work for minors. For example, no minor in New Jersey can be employed in the operation of buffing or polishing machines nor in the oiling, wiping or cleaning of machinery in motion or assisting therein. Federal Child Labor Law does not restrict the number of hours a minor over 16 may work even during school hours. New Jersey law prohibits minors 16 and over from working more than 8 hours per day, 40 hours per week and more than 6 days. New Jersey Law also requires minors to receive a one-half hour meal period after five consecutive hours of work.

I am so very pleased to see the pendulum swinging towards increased protection for children in the workplace. Quite honestly, for some time, there has been erosion in enforcement practices and laws for minors. It goes without saying that with any bill, there are some technical concerns, fiscal implications, and/or questions which must be answered.

This bill calls for a Federal Certificate of Employment to be issued to all minors under the age of 18 by state agencies. Has any consideration been given to this added responsibility which falls on the shoulders of the state? And, will there be an appropriation to support this new activity? For a state, such as New Jersey, which already has an Employment Certificate Program, which is even more comprehensive than this amendment, will you recognize the State's certification process in lieu of this new Federal requirement?

State agencies will also be required as part of the certification process to provide information on Federal laws governing the employment of minors. This, too, represents an added responsibility and cost to the states.

The annual submission of statistical data to the Secretary of Labor would represent another cost to the states.

New Jersey's agricultural employers and workers have grown accustomed to a workforce which permits minors, age 12, to work as migrant or seasonal agricultural workers. To raise this level to age 14 as this bill proposes has an obvious economic, child care, and family implication. It would seem that the issue of age might be secondary to the nature of the job. I'm not sure that I am concerned with legislatively mandating how old one must be to pick blueberries, but, more importantly, in what jobs a youngster should not be employed.

Mr. Chairman, I applaud you and your colleagues for your continued perseverance and commitment to this issue which, as I have described, is of paramount concern to New Jersey. I stand ready to assist you in any way possible in this initiative. Thank You!

PREPARED STATEMENT OF THE ASSOCIATION OF FARMWORKER OPPORTUNITY PROGRAMS

Introduction

The Association of Farmworker Opportunity Programs (AFOP) is honored to have this opportunity to submit testimony for the official record regarding the child labor problems in agriculture. The Association's comments are specifically directed toward those children who are hired in agriculture as employees and do not relate to children of farm owners or operators.

Formed in 1972, the Association of Farmworker Opportunity Programs (AFOP) is the national federation of non-profit organizations and state agencies that use federal and private funds to provide seasonal farmworkers, both migratory and non-migratory, with education, job training, and other forms of assistance in finding full-

time employment and gaining self-sufficiency. Our members, who operate programs in 48 states and Puerto Rico, administer grants funded by the U.S. Department of Labor's Job Training Partnership Act, Tille IV, Section 402 through a network of over 250 field offices located throughout rural agricultural America.

AFOP represents both those hired workers in agriculture who pick and harvest the fields and the organizations and agencies that provide services to this segment of the farmworker population. In this capacity, we believe that the basic problems affecting both child and adult farmworkers stem from the lack of equal protection under the law and the lack of enforcement of those protections that are enacted. The Association feels strongly that farmworkers, and especially their children, need to be granted coverage that is equal to the protections received by all other hired workers outside of agriculture.

Toward that end, we fully agree with the changes proposed within S. 600. We believe that these changes will go a long way toward helping agricultural child laborers achieve equal protection. However, we also believe these changes do not go far enough to provide farmworker children with dual protection under the law, and therefore, should be expanded.

Under the current law, agricultural industry is allowed to hire children two to four years younger than children any other industry can hire. Although S. 600 does eliminate provisions that allowed hired migrant and seasonal farmworker children under age 14 to work in agricultural jobs and children from age 14 to 16 to work in hazardous agricultural jobs, the changes proposed by S. 600 in some respects continue to maintain the two-year gap between protections for children hired by agriculture and children hired by other industries. The chart on the following page provides a comparison of the current and proposed legislative changes to child labor provisions for farm and non-farm work.

As the chart shows, hired farmworker children, like farmworker adults, continue to be discriminated against with respect to labor-protective legislation. Diminished protections and benefits perpetuate the problems that plague farmworkers and that keep them as the working poor of this nation. For these reasons, the plight of farmworkers has not changed much since the days of Edward R. Murrow's documentary, *Harvest of Shame*.

Requirement	Current Law		S. 600	
	Farm	Nonfarm	Farm *	Nonfarm
Work at any time in any job	16 years +	18 years +	16years +	18 years +
Work in any occupation except those declared hazardous	14 years +	16 years +	14 years +	16 years +
Work with parent's written consent	12–13 years	Not allowed	Not allowed	Not allowed
Work with parent's written consent with no minimum wage	Under 12 years	Not allowed	Not allowed	Not allowed
Work if farm receives waiver from DOL	10–11 years	Not allowed	Not allowed	Not allowed
Work for parents, except in manufacturing, mining, or hazardous non-farm jobs		At any age		At any age
Work for parents in any farm job	At any age		At any age	
Work during school hours	16 years +	16 years +	16 years +	16 years +
Work before and after school hours	No restrictions	Restrictions for under 16 years	No restrictions apply	Restrictions for under 16 years

* S. 600 would affect only hired farmworkers and would in no way change provisions for family farms

Establishing the Extent of the Problem

The child labor exemptions under the Fair Labor Standards Act of 1938 came about as a result of the chronic labor shortages of the 1930s. However, labor shortages in agriculture are things of the past. Due to an influx of workers, both legally documented, under the Immigration Reform and Control Act of 1986, and those who are undocumented; the increased use of mechanized harvesting equipment; and a

series of natural disasters in the past four years that have displaced thousands, there is a large surplus of adult workers available. It is no longer necessary to risk children's health and safety or foster provisions that deny their right to an education by allowing and economically forcing them to work in the fields.

Because of the paucity of accurate data on farmworkers in general, it is extremely difficult to say with certainty how many farmworker children are working in this country. In addition, records of the children working are not easily found, often because they work under the parent or guardian's social security number. However, several statistics project the extent of the problem and demonstrate the fact that there already exists an abundant supply of adult farmworkers to fill agricultural jobs.

At the low end of the spectrum, DOL estimates 277,500 farmworker children age 15 and over are working in the fields. Preliminary data from the forthcoming DOL *Annual Report of the National Agricultural Workers Survey of 1990* (NAWS) shows that of the estimated total 1.5 million farmworkers, there are 550,000 farmworkers with children living in the U.S. The report estimates that these farmworkers have about 550,000 children age 15 or over and 1,100,000 age 14 or under. Of the 550,000 children age 15 and over, about half (277,500) reported working in the fields. No data is available on the number of children age 14 or under who are working.

At the high end of the spectrum, the United Farm Workers union estimates there are 800,000 children working as hired farm laborers in America. [*Washington Post*, March 6, 1991, page D3]

Huge surpluses of adult agricultural workers exist. As published within the October 1, 1990 *Federal Register*, the U.S. Departments of Labor and Agriculture found that there is no shortage of adult farm labor in the U.S. In fact, preliminary results from the NAWS indicate that there has been an increase in the farm labor population since 1986, with well over 100,000 person-days of available agricultural labor in excess of the number of agricultural jobs.

Despite this fact, the American Friends Service Committee stated in their 1970 publication, *Child Labor in Agriculture*, that one-fourth of all farm labor in this country is performed by children. Dr. Frederick Rivara reported in the May/June 1990 issue of the *Migrant Health Clinical Supplement* that today, 19% of all farm labor is performed by children under 14.

The size and general agreement of these estimates underscores the poor enforcement of current child labor laws. For example, the Farm and Child Labor Division of the Employment Standards Administration found only 961 farmworker children working illegally in 1990. This is not surprising, though, since the documentary *Danger: Kids at Work* reported that ESA has a total of only 40 child labor inspectors for all industries in the entire country.

Although the press has documented children under 12 working in the fields [see *Boston Globe*, April 1990 series, and *El Paso Times* on August 28,1990], no waiver to hire children under the age of 12 has been granted by the Department of Labor to any agricultural business since 1986. Only one business has received this waiver this 1981.

Why Do Farmworker Children Work?

The answer is simple. It is a basic matter of survival for the farmworker family, because the adult farmworker is not adequately compensated and does not have the same basic labor standard protections that are afforded all other workers.

Farmworkers are the lowest-paid occupational group in America. Farmworker children work out of necessity in order to help supplement their family's limited income. They work in the fields illegally to help increase the productivity of the adult workers. Entire families must work because adult farmworkers receive extremely low wages and sporadic, seasonal employment, which results in annual incomes well below the poverty line.

Often, adult farmworkers are paid under the piece-rate system rather than receiving an hourly wage or being paid for overtime. It is in the piece-rate situations where one most often finds children working. Children help increase the piece-rate wages their family can earn by performing such tasks as picking crops and carrying heavy bushel baskets to and from the loading trucks.

Many farmworkers come from families who have been agricultural workers for generations. Because farmworker children often miss school in order to work, they have limited educational opportunities, and few skills transferable to other occupations. This in turn keeps them in farmwork, and perpetuates the cycle of poverty.

Farmworkers Face Education and Health Problems

Hired farmworker children are beset by an almost overwhelming array of education and health problems, which are exacerbated by the weaknesses of the current law.

EDUCATION SUFFERS FOR SAKE OF CROPS—LIMITS ON HOURS OF WORK ARE NEEDED

Children who work in the fields often work during school hours, depriving them of their right to an education. Because of this disruption in their education, farmworker children usually are forced to remain in farmwork, enduring the same substandard working conditions as their parents and grandparents. Scarce tax dollars are then required to help them obtain an education or alternative job skill at a later age and at a much higher cost. Resources are also required to provide GED, basic skills, and English-as-a-Second-Language (ESL) classes, health benefits, and job training for adult farmworkers who were denied an education as children.

A typical work day for many hired farmworker children begins before sunrise and ends after sunset, even on school days. *Children of the Field*, a film by Peter Monahan, documents the wide anecdotal evidence that many farmworker children work 8 hours per day during the school week, and that many work as much as 4 hours before the school day starts.

In some areas of the country, schools close for several weeks in order to facilitate children working in the fields to harvest the commodity. After all, crops must be harvested when the crops are ready; no delay for school hours can be afforded, even to allow for a child's educational development.

More commonly, schools remain open, forcing farmworker children to struggle to keep up with their classmates, despite extreme fatigue. The children do struggle—at least for a short while, that is. Eventually, long hours and strenuous work take their toll, causing excessive absenteeism. Absenteeism then causes children to be held back, to get discouraged with school, and usually, to drop out, which almost certainly condemns them to the strain and poverty of agricultural or other menial labor for the rest of their lives.

No before- and after-school work hour restrictions apply to children who work in agriculture. Hired farmworker children in some commodities work hours before school begins, forcing them to arrive at school late. Exhausted from waking up so early and doing heavy manual labor, they sleep most of the day at school, only to return home to find several more hours of work awaiting them. Protective language that limits the number of hours that a child can be hired to perform farmwork is needed. The provisions that apply to all other children should apply to farmworker children as well.

The following statistics demonstrate the price farmworker children pay in part because no laws restrict their working before and after school hours when school is in session:

The rate of school enrollment for farmworker children is lower than for any other group in this country [*Migrant Education: A Consolidated View*, Interstate Migrant Education Council, 1987].

86% of migrant children will not complete high school ["Mysterious Maladies of Farmworkers," *Washington Post*, 1988].

50 to 60% of farmworker children overall will drop out of school. For the rest of America, the rate is 25% [*Harvest of Confusion: Migrant Workers in U.S. Agriculture*, Boulder, CO, 1988].

CHILDREN'S HEALTH PROBLEMS WORSENED BY WORK

Even though farmworker children often lose educational opportunities through working in the fields, those problems pale in comparison to the physical dangers they face. The *Wall Street Journal* reported on July 20,1989 that 300 children die of farm-related accidents each year, and that more than 23,500 are injured. Additional tragic health statistics about farmworker children:

A recent study found that 48% of farmworker children working in the fields had been sprayed with pesticides ["The Hidden Cost of Child Labor," *Family Circle*, March 12, 1991].

Two studies have linked childhood brain tumors and leukemia to pesticide exposure [*The Occupational Health of Migrant and Seasonal Farmworkers in the United States*, Farmworker Justice Fund, 1988].

The infant mortality rate is 125% higher for migrants than the national average [*Migrant and Seasonal Health Objectives for the Year 2000*, National Migrant Resource Program, Austin, Texas, 1990].

The rate of parasitic infection among migrants is estimated to be 11 to 59 times higher than that of the general U.S population, and three times that of Guatemala's [*Migrant and Seasonal Health Objectives for the Year 2000*, National Migrant Resource Program, Austin, Texas, 1990].

The incidence of malnutrition among migrants is higher than among any other sub-population in this country [*Migrant and Seasonal Health Objectives for the Year 2000*, National Migrant Resource Program, Austin, Texas, 1990].

FARMWORKER CHILDREN FACE WEAK LABOR STANDARD PROTECTIONS

Lack of strong and equal federal protections sends a clear message to states. As a result, 16 states still do not have labor standards specifically protecting farmworker children.

Since farmworker children can be hired as employees in agriculture at the age of 10, those labor protection standards that apply—or more accurately, do not apply—to adult farmworkers also apply to farmworker children. Hired farmworker children who are functioning as adult farmworkers are therefore affected by the following labor standards problems:

Only 36% of farm labor is guaranteed the right to drinking water, handwashing water, and access to toilet facilities in the fields [*Migrant Health Clinical Supplement*, May/June 1990, National Migrant Resource Program].

Because of the 500-man-day exemption in FLSA, only about half of all migrant and seasonal farmworkers—children and adults—are entitled to a minimum wage [*Migrant Health Clinical Supplement*, May/June 1990, National Migrant Resource Program].

Only 14 states provide full worker's compensation coverage for farmworkers—adults or children—and in 19 states, worker's compensation does not apply to agricultural workers at all [*Federal and State Employment Standards and U.S. Farm Labor: A Reference Guide to Labor Protective Laws and Their Applicability in the Agricultural Workplace*, Austin, Texas, 1988].

In 15 states, there are no job safety standards applicable to agriculture [*Federal and State Employment Standards and U.S. Farm Labor: A Reference Guide to Labor Protective Laws and Their Applicability in the Agricultural Workplace*, Austin, Texas, 1988].

Only 4 states provide full unemployment insurance coverage for farmworkers [*Federal and State Employment Standards and U.S. Farm Labor: A Reference Guide to Labor Protective Laws and Their Applicability in the Agricultural Workplace*, Austin, Texas, 1988].

Over 44% of U.S. farmworker households have at least one disabled member [*Federal and State Employment Standards and U.S. Farm Labor: A Reference Guide to Labor Protective Laws and Their Applicability in the Agricultural Workplace*, Austin, Texas, 1988].

The rate of job-related deaths in agriculture for 1985 was 49 per 100,000 workers; in contrast, the rate was 11 deaths per 100,000 in six other major occupational categories ["Mysterious Maladies of Farmworkers," *Washington Post*, 1988].

More Educational Alternatives for Children Beyond Farmwork Are Needed

Some critics of increased protections for hired farmworker children would say that eliminating the income generated by farmworker children will have a negative effect on the farmworker family. We at AFOP would suggest that a child's education is more important, and would argue that prohibiting young children from working in the fields may mean that the adult workers would be allowed to work more hours or that employers would be encouraged to pay them higher wages.

We believe that education and training are much better alternatives for children who are now working in the fields. These alternatives would help children to break out of the cycle of poverty that we discussed above.,

Programs providing training and educational and vocational development could provide these children with stipends to help offset the immediate loss of income for the families while attending training programs. Not only would these stipends help to offset the family's possible loss of wages, but they could increase the educational potential of the child by securing family support for participation in training and by providing a financial incentive for the child not to drop out of school.

Funds for such programs are available under Title IV § 402 of the Job Training Partnership Act (JTPA). Although these funds are extremely limited, additional resources for these training programs could be drawn from JTPA Title II-B or II-C, summer and year-round youth programs, which currently do not earmark funds for

farmworker children. A percentage of these funds could be set-aside nationally and administered by the JTPA 402 program for farmworker youth.

Require Longer Field Re-entry Times for Children

Very few agricultural commodities are produced without the use of pesticides. Farmworker children are exposed to toxic pesticides that can adversely affect their health and are allowed to re-enter fields within the same time period allowed for an adult at least twice to three times their size and weight. Both the Occupational Health and Safety Administration (OSHA) and the Environmental Protection Agency (EPA) regulations require agricultural employers to allow a 24- to 72-hour re-entry period after pesticide spraying before farmworkers can go into a field to harvest crops. Chemical companies that make the pesticides decide how long the re-entry period should be, based on tolerance levels considered adequate for adult farmworkers.

Re-entry periods recommended by agricultural chemical companies are based on adult exposure tolerance levels. These levels are supposed to be 10 times those considered safe for a 165 pound, 5'10" adult male. However, the safe level of exposure for a child, when compared to an adult, is considerably lower, and thus reduces the level of safety from ten times to a level which is minimally safe.

In a recent incident in Florida, agricultural employers sent over 100 farmworkers into the fields without waiting the proper re-entry period. This exposure to the pesticide made all workers ill, forced the hospitalization of some, and caused two of the five pregnant women miscarry. However terrible these consequences, it was very fortunate that these workers were adults, since a child may have died from the exposure.

We recommend that no child under the age of 18 be allowed to work with crops where pesticides have been used. At a minimum, chemical companies should be required to provide different re-entry periods for children than are currently provided for adults. The re-entry periods for children should be at least three times longer than the time periods currently allowed for adults.

Designate Pesticide Handling as a Hazardous Occupation

Based on a report released in February 1989 by the Natural Resources Defense Council entitled *Intolerable Risks: Pesticides In Our Children's Food*, "in addition to receiving greater exposure to many pesticides than adults, young children may be more susceptible to the toxic effects of these pesticides as a result of their immature physiological development . . . Numerous studies have found that the young are more vulnerable to the toxic effects of many chemicals . . . exposure to a number of carcinogens and neurotoxins, including neurotoxic pesticides, has been shown to cause greater harm to the young than the same exposure experienced later in life. Further, a number of studies have found that low-level exposure to neurotoxic pesticides during nervous system development can cause long-term neurological impairment. Many compounds, particularly inorganic chemicals, are absorbed more readily by the young than by the adult."

Because of this constant exposure, compared to the general population, farmworkers are 9 to 85 times more likely to suffer from diarrhea, 3 times more likely to suffer chemical exposure, and 5 times more likely to develop skin rash. The rate of parasitic disease among U.S. farmworkers is higher than among children in Guatemala [Dr. Eugene Gangarosa, Professor of Public Health (Emory University, Atlanta, Georgia), *The Nation*, May 11, 1985, page 558].

In an article entitled "Pesticide-Related Health Problems in Farmworkers," Dr. Marion Moses, an expert in the area of pesticide poisoning, has stated that "because of repeated and regular exposure to toxic pesticides, farmworkers have instances of brain tumors, lymphoma, leukemia, multiple myeloma, lung cancer, sterility, damage to the nervous system, allergic dermatitis, chromosomal defects, and spontaneous abortions in women."

Is this all farmworker children have to look forward to? Pesticide exposure is dangerous and pesticide handling should be designated as a hazardous occupation. No child under the age of 18 should be allowed to work handling pesticides.

Poultry Processing Should Be Considered Hazardous

We support the provision in S. 600 that adds poultry processing to the list of hazardous occupations.

In addition to pesticide exposure, stoop labor, and hand-harvesting, poultry processing can be detrimental to farmworker children. The strenuous and repetitive motions of this type of farmwork create hand and shoulder problems, joint and muscle trauma, and disabling arthritis that will plague a child for the rest of his or her life. Poultry workers are expected to use dangerous processing equipment, such as pow-

erful knives, vacuums, and saws, on high-speed production lines. While ganglion cysts and carpel tunnel syndrome are among the most common results of working with this equipment at such a rapid rate over an extended period of time, this equipment can also result in serious injuries and even death.

According to a Cornell University study in 1988 on accident rates for children working on farms, 35.6% of children aged 5–14 who work on a farm have been in some type of accident or sustained some type of injury. This statistic includes the children of farm owners and operators, in addition to children hired by and unrelated to the farm owners.

Stiff Civil and Criminal Penalties Must Be Imposed

While the efforts of the Department of Labor's Operation Child Watch strike force in March 1990 were commendable, most of the 500 compliance officers sent out focused on service industry-type businesses. Thus, most of the violations found were in the food service industry. According to a list released by the Department of employers cited and fined, no agricultural employers had been cited or fined. This is also not surprising since the month of March is not a high time for agricultural activity. However, in the follow-up summer strike force effort, 961 violations were found.

With only 1,000 compliance officers to cover the entire workforce across America, including children, it is obvious that the Employment and Standards Administration's Wage and Hour Division is unable to do the job it is mandated to do. Former head of ESA William Brooks once admitted that among ESA's 1,000 compliance officers, none were specifically assigned to track child labor law violators. However, since the strike force efforts, it appears that 40 compliance officers have now been designated with this task nationally.

According to the *1987 Statistical Abstract of the United States*, in 1985, there were 7.9 million children under the age of 18 employed. Can only 1,000 compliance officers police the actions of the thousands of employers that hire child workers? Although the level of monetary fines were recently raised, we suspect that these civil money penalties alone will be of little or no threat to employers who know that with a limited number of inspectors, the chances of being caught are extremely slim.

Civil money penalties must be coupled with stiff criminal penalties. Additionally, if an employer is caught a second time, we support the restriction barring an employer from receiving any federal grants, loans, or contracts for at least a five-year period. Employers must be sent a clear message that violations will not be tolerated.

Recommendations

We urge you to help farmworker children who are working as hired employees on the farm by placing the following provisions into S. 600:

Provide equal labor standard protections for hired farmworker children as are afforded all other children. In other words, no child could be hired to work in agriculture under the age of 16;

At a minimum, support the repeal of the current exemptions provided under the Fair Labor Standards Act of 1938 and DOL regulations that allow agricultural employers to hire children under the age of 14 to work in agriculture;

Support the enforcement of the current regulations and levy stiffer civil fines and criminal penalties for violations;

If an employer receives a second violation, the employer snould be banned from receiving any federal grants, loans, or contracts for a period of no less than five years;

Ban agricultural employers from allowing any child under 18 to work harvesting any crop in which pesticides have been used during production;

Support adding pesticides and poultry processing to the list of hazardous occupations;

Require that no child under the age of 18 can be hired to perform duties which include pesticide handling or application and poultry processing;

Make provisions for the education of and assistance to farmworker families regarding the child labor laws and the potentially detrimental effects of agricultural labor on their children;

Educate agricultural employers on the current and/or revised child labor laws and results for violations;

Make provisions for child care services to be available for the children of farmworkers on or near the farm work sites;

Make the DOL Child Labor Advisory Committee a permanent committee with representation on behalf of hired farmworker children through the Association of Farmworker Opportunity Programs (AFOP);

Require the Occupational Health and Safety Administration (OSHA) inspectors to investigate all farms, even small ones, on a regular basis, for child labor violations; and

Target ESA compliance officers to pursue child labor violations specifically in the agricultural industry and provide adequate funding to carry out enforcement activities.

Resolving the Underlying Problem

The most effective way to assist agricultural industry in avoiding repeated violations of the child labor laws would be to require agricultural employers to provide all employed farmworkers, both children and adults, with the same protections and benefits that are provided to workers in all other industries. These basic protections and benefits include:

1. Stricter child labor laws.
2. Unemployment insurance.
3. Fringe benefits, including paid health and medical coverage, sick and holiday leave, and a retirement plan.
4. A guaranteed minimum wage and payment for overtime.
5. Basic sanitary working conditions, such as fresh drinking water, reasonable access to handwashing and toilet facilities, and safe and clean living accommodations.
6. Protections from a hazardous work environment, such as requiring workers to be told in advance that they are working with a dangerous pesticide and what the potential long-term exposure effects are.

Farmworkers must be provided with these basic protections and benefits that workers in other industries take for granted. Although we fully support the protections for child in S. 600, unless farmworker children start from the same level of protections as all other children, no matter what additional protections are added, hired child laborers will not be equally treated or protected. Without an equal foundation of labor standards, farmworker children, like their parents, will be maintained as a sub-class citizenry.

What it basically comes down to is this—we can either pay now, by allowing farmworker children to get the education they deserve so that they can become self-sufficient and able to provide for themselves and their future families, or we can pay much more later through a variety of education, training, and human service programs designed to correct the mistakes allowed in the past.

It has been 30 years since the airing of Edward R. Murrow's shocking CBS documentary, *Harvest of Shame*. After the show aired, Congress and the nation expressed outrage over the fact that these citizens, living in the most prosperous nation in the world, were existing in such bad conditions. For a while, Congress made the needs of farmworkers a high priority issue and promised to address the needs highlighted in the documentary.

But the graphic images of the documentary have faded. Because farmworkers have never had money, resources, or a powerful voice, their needs became a back-burner issue, not only in Congress, but with the American public in general.

As a result, three generations of farmworkers and their children have lived in the same squalid conditions as the original farmworkers featured in *Harvest of Shame*. The ones who have been hurt the most by promises have been farmworker children. They have a right to the same opportunities and protections offered to all other children in America. Steps must be taken now to provide these innocent victims equal treatment.

We thank you for the opportunity to testify on this vitally important issue and will be happy to respond to any questions you may have.

PREPARED STATEMENT OF THE UNITED STATES GENERAL ACCOUNTING OFFICE
FRANKLIN FRAZIER, DIRECTOR OF EDUCATION AND EMPLOYMENT ISSUES

In 1988, over one-fourth of all 15-year-olds and one-half of all 16- to 17-year-olds worked some time during the year—over 4 million children in total. To protect children from oppressive working conditions, regulations issued under the Fair Labor Standards Act of 1938 limit the hours that children under age 16 can work, set minimum age standards for work in specified occupations, and restrict employment in specific hazardous occupations for youths under age 18. Detected child labor violations increased 340 percent since 1983. For child labor violations, the average assessed penalty per violation in FY 1990 was $212.

Low-Income and Minority Children Are Less Likely To Be Employed

In low-income families (those with incomes of $20,000 a year or less), 32 percent of the children were employed in 1988, compared with 54 percent of the children from high-income families (those with incomes of $60,000 a year or more). About 28 percent of black and hispanic children were employed, compared with 50 percent of white children.

Type and Amount of Work Differ By Child's Family Income

More children from low-income families worked in agriculture, wholesale trade and "hazardous" industries like manufacturing and construction than children from high-income families. Employed children from low-income families averaged 22 hours of work a week while children from high-income families averaged 19 hours a week. In contrast, children in low-income families averaged fewer weeks of work a year than high-income families: 20 weeks to nearly 23 weeks.

GAO Estimates That About 166,000 15-Year-Olds Were Employed Illegally in 1988

Using census data, we estimate that in 1988, about 18 percent of all employed 15-year-olds worked in violation either of federal regulations governing maximum hours of work or the minimum age for certain occupations.

Some Illegally Employed Children Sustained Serious Injuries

Between FY 1983 and 1990, Labor detected a total of 1,475 violations associated with the serious injury of working children. The annual number of detected serious injuries associated with a violation has doubled to 288 since fiscal year 1983. Although 4 percent of all child labor violations occurred in construction and manufacturing, over 27 percent of detected serious injuries were identified in these industries.

Labor's Penalties Assessed for Violations With Serious Injuries

Labor does not routinely maintain information on assessed penalties in individual cases. However, data from Labor's 1990 Operation Child Watch Enforcement efforts showed that Labor assessed the FY 1990 maximum civil monetary penalty of $1,000 on all non-willful violations where an illegally employed child sustained a serious injury.

To the Chairmen and Members of the Subcommittees:

Despite the growing concern about the exploitation of America's working children, there has been virtually no information available profiling our working youth. Thus, I am pleased today to respond to your request on the characteristics of America's working children. In particular, I will outline the economic and demographic characteristics of working 15- to 17-year-old children, describing who they are, where they work and how much they work throughout the year, although we cannot describe their work patterns solely during the school year. I will also discuss the number of children found by Labor to have been seriously injured while working in violation of child labor laws from FY 1983 to FY 1990 and the penalties Labor assessed some employers of illegally employed children who were seriously injured. These results are described in more detail in our forthcoming report.

Our major points are as follows:

About 28 percent of all 15-year-olds and 51 percent of all 16- and 17-year-old children were employed some time during 1988. Low-income and minority children were less likely to be employed than high-income and white children.

When employed, children from low-income families were more likely to be employed in agriculture or other "hazardous" industries like manufacturing or construction. They also worked more hours a week but fewer weeks a year than children from high-income families.

We estimate that, in 1988, about 18 percent of employed 15-year-olds worked in violation of federal child labor regulations governing maximum hours or minimum ages for employment in certain occupations.

In fiscal years 1983 through 1990, Labor detected 1,475 violations associated with serious workplace injuries of working children: injuries causing lost work time, permanent disability or death.

In those FY 1990 cases where Labor can readily identify the assessed fines, Labor assessed the maximum penalty of $1,000 against all child labor violators employing a child who was seriously injured. Labor did not cite any of these businesses for willful violations (for which the penalty could have been $10,000), nor did it refer any of these cases for criminal prosecution.

Background

GAO was requested to perform this review because of congressional concern about increased violations of child labor laws.[1] In FY 1990, Labor detected over 42,000 child labor violations, an increase of over 340 percent since FY 1983. The total number of detected illegally employed children increased by 330 percent to over 38,000. The number of detected violations is greater than the number of illegally employed minors because a minor may be employed in violation of more than one child labor standard.

Despite this growth, policy decisions on how to prevent violations have been hampered by a lack of basic data about working youth. Although we are satisfied that the information we provide at this time makes a significant contribution to the knowledge base about working children, it is still less than we think is needed for understanding the full impact of this problem. For example, although we will share with you our analysis of the best national data available today on the number of working children, the data base does not permit the analysis of youth employment during the school year alone. Researchers believe that it also underestimates the true amount of annual employment by children. In addition, as we noted in our April 1990 report, no comprehensive national work-related injury and illness data exist for minors.

The Fair Labor Standards Act (FLSA) is the primary federal law regulating wages and working conditions of American workers, including children. Regulations issued under the act set a minimum age requirement for work in certain occupations (minimum age/prohibited occupation regulations), limit the hours in which youth aged 14 and 15 can work (hours regulations), and restrict employment in specific hazardous occupations for youth under age 18 (hazardous order regulations). The Wage and Hour Division (WHD), within Labor's Employment Standards Administration, is responsible for the administration and enforcement of FLSA, including child labor standards. In FY 1990, WHD had about 1,000 compliance officers who enforced the FLSA, including the act's child labor provisions.

Since 1974, FLSA has authorized Labor to assess a maximum civil monetary penalty of $1,000 for each violation of federal child labor regulation, unless the violation was deemed to be willful, in which case a $10,000 penalty could be assessed. During FY 1990, Labor carried out a policy of citing businesses that illegally employed children who sustained a serious injury with the maximum penalty for a non-willful violation, regardless of the nature of the serious injury. Labor did not cite any of these businesses for willful violations, nor did it refer any of these cases for criminal prosecution. For FY 1990, the average penalty assessed by WHD per child labor violation was about $212.

As part of the fiscal year 1991 budget legislation, Congress gave Labor the authority to assess a maximum civil monetary penalty of up to $10,000 for each non-willful child labor violation. Reflecting the legislated increase in the maximum civil monetary penalty, Labor has now modified its policy. As of March 1991, Labor will assess the maximum civil monetary penalty of $10,000 in those cases where an illegally employed child is fatally injured. It will assess penalties of $7,500 to $10,000 in cases where an illegally employed child suffers a permanent disability. Finally, it will assess a minimum penalty of $5,000 in those cases where an illegally employed child suffered a serious injury resulting in lost worktime.

Scope and Methodology

In an attempt to answer your questions, we conducted interviews with experts inside and outside the government to determine what data sources were available. This led us to use three sources. First, we obtained and analyzed family data from Census's March 1989 Supplement of the Current Population Survey (CPS) to determine the profile of working children. Second, we analyzed Labor Department child labor inspection records to identify those illegally employed children who sustained serious injuries and the total number of detected violations for the fiscal years 1983–1990. Third, we obtained assessed penalty information associated with those serious injuries of illegally employed children detected during Labor's FY 1990 Operation Child Watch enforcement sweep actions.

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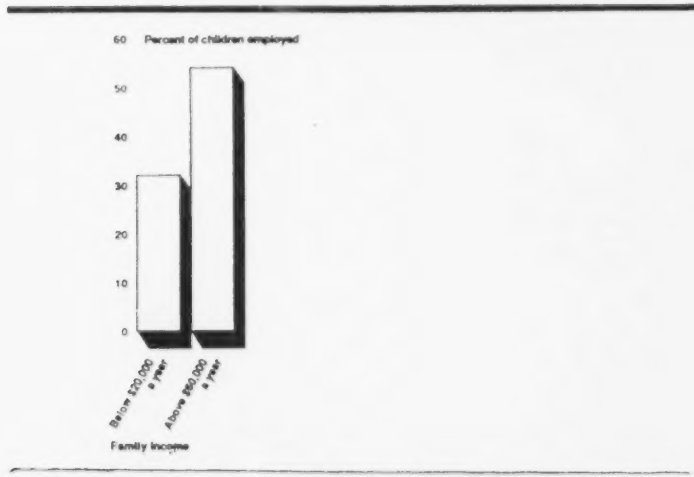
[1] See, for example, *Child Labor: Increases in Detected Child Labor Violations Throughout the United States*, GAO/HRD-90-116, April 30, 1990.

Study Results

LOW-INCOME AND MINORITY CHILDREN LESS LIKELY TO BE EMPLOYED

Our analysis of the CPS data shows that about 28 percent of all 15-year-olds (over 919,000) and 51 percent of all 16- to 17-year olds (over 3.5 million) worked some time during 1988. Children aged 15- to 17-years-old from families with annual incomes of $20,000 or less (low-income families) were less likely to be employed in 1988. Of the over 3 million 15- to 17-year-old children living in low-income families, 32 percent were employed, compared with 54 percent of the 1.9 million children from families that earned $60,000 or more a year (high-income families) (see figure 1).

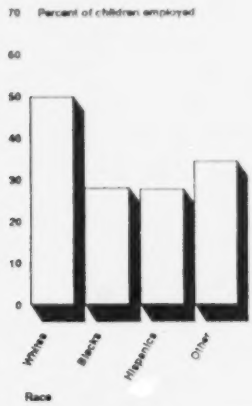
FIGURE 1



Minority children aged 15–17 were employed at a lower percent rate than white children in the same age group in 1988. About 28 percent of both black and hispanic children were employed, compared with 50 percent of the white children. (see figure 2).

FIGURE 2

GAO Minority Children Less Likely to be Employed In 1988



Type and Amount of Work Differs By Child's Family Income

Most 15 to 17-year-olds were employed in industries like retail trade (48 percent) and personal services (19 percent), but the type of employment varied by family income. More children from low-income families (20 percent) than from high-income families (14 percent) worked in "hazardous" industries like agriculture, manufacturing, and construction, and wholesale trade, including warehouse operations.

In addition, in 1988 on average, 15-year-old employed children worked an average of 17 hours a week and 19 weeks a year; employed 16- and 17-year olds worked an average of 21 hours a week and 23 weeks a year. Because the CPS data base does not distinguish between employment during non-school and school year periods, we could not estimate the amount of work during the school year alone.

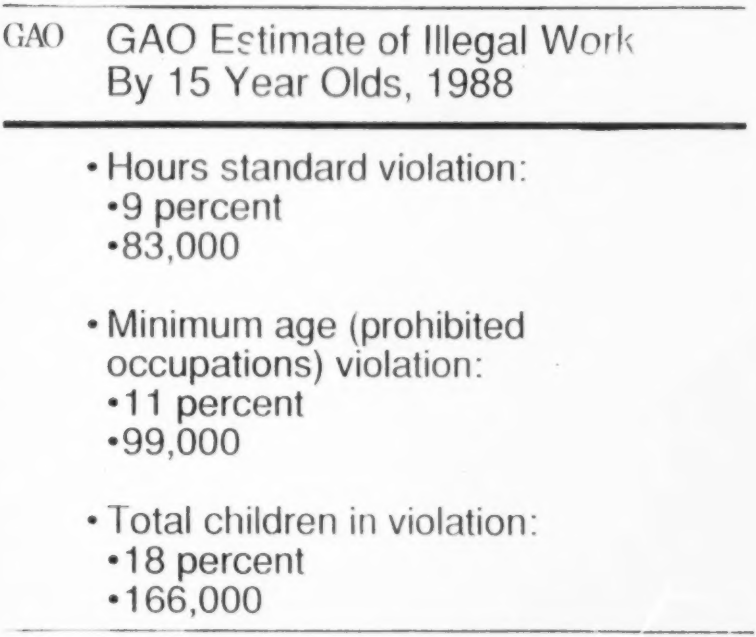
The amount of hours worked a week and weeks worked a year by children varied by the family income of the child. In 1988, employed 15- to 17-year-old children from low-income families averaged 22 hours of work a week, compared with children from high-income families, who averaged 19 hours a week. In contrast, employed children in low-income families averaged fewer weeks of work a year than children from high-income families, or 20 weeks to nearly 23 weeks.

GAO Estimate of Illegal Employment

We have described in previous testimony and reports the number of children found by Labor to be working in violation of child labor laws. Because we have seen no estimate of the total number of children likely to be working in violation of these laws, we used CPS data to prepare our own estimate of the number of 15-year-olds who are illegally employed. (See the appendix for the methodology we used).

We estimate that in 1988 about 18 percent of all employed 15- year-olds (about 166,000) were working in violation either of the regulations governing maximum hours of work or the minimum age for employment.[2] About 9 percent of them worked at least some time in violation of the federal maximum hours regulation; almost 11 percent of them worked in violation of the federal minimum age standard prohibiting 15-year-olds from employment in certain occupations; some worked in violation of both regulations. (see figure 3).

FIGURE 3



Trends in Detected Violations Associated With the Serious Injury of Working Children

Between FY 1983 and 1990, the Department of Labor detected a total of 1,475 violations in non-agricultural involving the serious injury of a working child.[3] However, while the annual number of detected violations associated with serious injuries has doubled since fiscal year 1983 (from 143 to 288), the annual number of total detected violations has increased more than fourfold (42,696 in 1990 compared with 9,679 in 1983). In addition, the greatest percentage increase in violations occurred in

[2] Because of limitations in the CPS data base, we believe that this estimate understates the number of 15-year-olds employed in violation of federal child labor law.

[3] Consistent with Labor's definition, we defined serious injury as either (1) an injury that caused the loss of at least one working day by the child, (2) a permanent total or partial disability, or (3) a fatality. Although Labor records each detected serious injury, it does not record whether each is an injury, disability or death.

hours violations which are less related to serious injuries. Thus, a smaller percentage of the child labor law violations involved serious injuries in fiscal year 1990.

Serious Injuries Differ by Type of Violations and Industry

Most violations involving serious injuries of working children are associated with hazardous order violations. Between FY 1983 and 1990, over 85 percent of all violations involving serious injuries were associated with a hazardous order violation, although hazardous order violations comprised only 32 percent of all child labor violations. Less than 15 percent of all serious injuries were associated with minimum age and maximum hours violations, although they comprised 68 percent of all child labor violations.

Detected violations associated with serious injury also differ by industry. About 27 percent of all injuries associated with child labor violations occurred in construction and manufacturing industries even though employment in those industries accounted for only 4 percent of all detected child labor violations.

Labor's Penalties Assessed for Serious Injury Cases

Labor does not routinely keep penalty information on individual cases at headquarters either on a current or historical basis. However, Labor did keep data on penalties on the violations detected during its FY 1990 Operation Child Watch, four nationwide "strike force" enforcement sweeps that included 9,524 inspections and found 27,634 children illegally employed. In those inspections, Labor assessed the maximum non-willful violation penalty for all 50 violations associated with a serious injury. Labor did not cite a willful violation (for which the penalty could have been $10,000) in any of these cases, nor did it refer any of these cases for criminal prosecution.

Our analysis of these sources of additional data is consistent with the trends we identified in our previous work, particularly the growth in the number of detected violations and illegally employed children since Fy 1983. This concludes my statement. I will be glad to answer any questions you may have.

APPENDIX: GAO ESTIMATE OF ILLEGAL EMPLOYMENT OF 15-YEAR-OLDS

Using data from the 1989 Annual March Supplement of the Current Population Survey (CPS), we estimated the number of 15-year-olds who may have been illegally employed in 1988 under the federal regulations governing either (1) the maximum work hours or (2) minimum age/prohibited occupations for 15-year-olds employed in non-agricultural industries.

EXISTING FEDERAL CHILD LABOR REGULATIONS

Federal regulations provide that 14- and 15-year-old children working in non-agricultural industries may not be employed (1) during school hours, (2) before 7 am or after 7 pm or for more than 3 hours a day on school days, or (3) more than 18 hours in school weeks. In addition, they may not work more than 8 hours a day or 40 hours a week in non-school days and weeks. Federal regulations also prohibit 14- and 15-year-olds from employment in (1) all manufacturing and mining occupations, (2) with certain exceptions, construction, transport, public utilities and communications occupations and (3) a number of occupations in retail, warehousing and food service.

Violation of Federal Hours Regulation

Estimating the number of school children violating the federal maximum hours regulation involved two steps: (1) estimating the total number of 15-year-olds illegally employed in 1988 and (2) adjusting the estimate for the number of children excluded by the child labor provisions of the Fair Labor Standards Act (FLSA).

From the CPS, we identified:

—the number of 15-year-olds who worked more than 40 hours a week during any week in the year and

—the number of 15-year-olds who worked at least 19 hours a week but no more than 40 hours a week for 16 weeks or more (using 16 weeks of employment to approximate the length of the non-school period of the year).

We summed these two groups to obtain our unadjusted estimate of 94,826 15-year-olds working in violation of the federal hours regulation.

Second, we corrected the unadjusted estimate for likely coverage by the FLSA.[1] This correction left us with 83,216 employed 15-year-olds or about 9 percent of all

[1] Not all children are covered by the FLSA. The primary determinant of coverage by the child labor provisions of the FLSA is whether the individual child is employed by a business engaged

Continued

15-year-olds employed in non-agriculture and agricultural industries in 1988. At the 95 percent confidence level, the associated sampling error was +/-3.1 percent.

Violation of the Federal Minimum Age Regulation

As a first step, we identified the primary industry of employment for each 15-year-old who worked in 1988. We summed the number of 15-year-olds employed in manufacturing, construction, mining, public utilities, communication and transport industries to obtain our unadjusted estimate of 112,871 children working in violation of the minimum age regulation in 1988.

Second, we again adjusted our estimate for FLSA coverage. The remaining 99,051 employed 15-year-olds represented about 10.8 percent of all 15-year-olds employed in non-agriculture and agricultural industries in 1988. At the 95 percent confidence level, the associated sampling error was 3.0 percent.

Total Extent of Illegal Employment

To get an estimate of the amount of illegal employment under both provisions, we summed both unadjusted estimates, subtracting the number of children who were counted in both estimates. This left an unadjusted estimated total of 188,881 children. Adjusting for FLSA coverage, we estimate that 165,754 15-year-olds or about 18 percent of all employed 15-year-olds were employed illegally at least part of the time in 1988. At the 95 percent confidence level, the associated sampling errors was +/- 4.1 percent.

Estimate May Understate Actual Extent of Illegal Employment

We believe that overall we underestimate the number of illegally employed 15 year olds. First, the CPS data base itself may yield an underestimate of illegal employment. There is evidence that the CPS underestimates the number of children who work and the estimates of illegal employment may be low.

Second, the CPS also does not indicate the number of hours a child works daily or the time of day during which the work occurred, so we could not estimate illegal employment of over 8 hours a day or estimate illegal night employment.

Third, on our estimate of employment in violation of the federal minimum age regulation, we could not include children employed in prohibited activities in otherwise allowed industries. For example, we did not include children operating meat slicers in the retail and food service industries.

On the other hand, some data limitations cause our figures to overestimate illegal employment. However, we feel that the number of children inappropriately included in our estimate is much smaller than the number missed in our estimate.

For example, our estimate includes some children who may be legally employed in certain industries—a 15-year-old may be legally employed as a sales or office worker in construction as long as they work away from the construction site.

Senator Dodd. The subcommittee will stand adjourned.

[Whereupon, at 12:20 p.m., the joint subcommittee hearing was concluded.]

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in interstate commerce, which in many cases means total annual sales of over $500,000, or whether the child is individually engaged in interstate commerce. Assuming that all employed 15-year olds were non-supervisory workers, we corrected for the Act's coverage by adjusting our estimates with the percentage of all non-supervisory workers covered by the minimum wage provisions of the FLSA.

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